

Resources Legislation (Safety and Health Fees) Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Scott Stewart MP, Minister for Resources provide this human rights certificate with respect to the *Resources Legislation (Safety and Health Fees) Amendment Regulation 2021* (Amendment Regulation) made under the *Coal Mining Safety and Health Act 1999*, the *Explosives Act 1999*, the *Mining and Quarrying Safety and Health Act 1999*, the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The *Coal Mining Safety and Health Act 1999* establishes the overall legislative framework for the safety and health of persons at coal mines with the following primary aims to:

- protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations;
- require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
- provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under the Act.

The *Coal Mining Safety and Health Regulation 2017* supports these objectives, and also specifies safety and health fees to be paid by coal mining operators. These safety and health fees contribute to the funding of the operations of the regulator, Resources Safety and Health Queensland (RSHQ).

The *Explosives Act 1999* provides a framework for regulating the handling of, and access to, explosives to protect public health and safety, property and the environment. The *Explosives Regulation 2017* supports these objectives, and also specifies safety and health fees to be paid by a holder of an authority. These safety and health fees contribute to the funding of the operations of the regulator, RSHQ.

The *Mining and Quarrying Safety and Health Act 1999* establishes the overall legislative framework for the safety and health of persons at mines with the following primary aims to:

- protect the safety and health of persons at mines and persons who may be affected by operations; and
- require that the risk of injury or illness to any person resulting from operations is at an acceptable level.

The *Mining and Quarrying Safety and Health Regulation 2017* supports these aims, and also specifies safety and health fees to be paid by mining operators. These safety and health fees also contribute to the funding of the operations of the regulator, RSHQ.

The Amendment Regulation provides for the full cost recovery of RSHQ's mining, and explosives regulatory activities, including coal workers' pneumoconiosis related activities. Four safety and health fee tiers replace the current two tiers. This improves the progressivity of charging based upon the size of the operation, based upon the number of workers.

In contrast, under current regulations, the two tiers are more than five but not more than 10 workers; and more than 10, resulting in an operation with more than 10 workers, (for example, 11 workers) paying the same fee per worker as an operation with more than 99 workers.

The additional tiers of 11 to 19 workers, 20 to 99 workers, and 100 workers or more will replace the existing more than 10 category. The proposed four tiers are still based on a fee per worker.

Operations with five or fewer workers will continue to pay no fees. This tier represents approximately 88 per cent of operators, and explosives authority holders who will continue to be exempt from fees.

The main purpose of the *Petroleum and Gas (Production and Safety) Act 2004*, is to facilitate and regulate the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum and fuel gas industry.

The *Petroleum and Gas (Safety) Regulation 2018* supports these aims and specifies safety and health fees for the industry.

The *Petroleum Act 1923* regulates the mining for petroleum and natural gas in Queensland and is an authorising Act for the *Petroleum and Gas (Safety) Regulation 2018*.

The Amendment Regulation revises the fee structure for biogas activities in the *Petroleum and Gas (Safety) Regulation 2018*. Aligning the safety and health fee to the risk-based regulatory services provided to the biogas sector assures stakeholders that appropriate fee structures and safety requirements are being considered for a growing industry with different levels of safety risks. A reduction in fees may also stimulate the biogas industry. Through the introduction of the proposed fee structure all Queensland biogas sites would see a reduction in the safety and health fee or a maintenance of the existing payable fee.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights relevant to the Amendment Regulation are:

- right to life (section 16 of the *Human Rights Act 2019*); and
- right to liberty and security of person (section 29 of the *Human Rights Act 2019*).

The Amendment Regulation implements a new funding model for RSHQ, to ensure that RSHQ has sustainable funding to regulate for the safety and health of workers in the coal and metalliferous mining industries, and to regulate for the safety and security of those in the explosives industry.

The Amendment Regulation will also introduce a tiered safety and health fee structure for biogas and biomethane. This structure will remove the inequitable “one size fits all” fee structure and will ensure that instead the fee structure is aligned with the risk profile based on the size or usage of the operation.

In my opinion, the Amendment Regulation promotes the right to life and the right to security of the person protected by the *Human Rights Act 2019*, and does not limit any rights.

The right to life protects the lives of all persons and includes the right not to be arbitrarily deprived of life. It imposes positive obligations on the State to take appropriate steps and adopt positive measures to protect the health and safety of its citizens.

The right to security of the person similarly places a positive obligation on the State to take appropriate steps to ensure the physical safety of those who are in danger of physical harm.

The State responds to these positive obligations by ensuring the sustainable funding of the safety and health regulator, RSHQ, through safety and health fees paid by coal mining operators, metalliferous mining operators, explosives authority holders and the fee paid by biogas and biomethane operators.

Conclusion

I consider that the *Resources Legislation (Safety and Health Fees) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it raises human rights but does not limit human rights.

SCOTT STEWART MP
MINISTER FOR RESOURCES