

Mineral and Energy Resources (Financial Provisioning) Amendment Regulation 2025

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, the Honourable David Janetzki MP, Treasurer, Minister for Energy and Minister for Home Ownership provide this human rights certificate with respect to the *Mineral and Energy Resources (Financial Provisioning) Amendment Regulation 2025* (the Amendment Regulation) made under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act).

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

Following a review undertaken by the Scheme Manager in 2022 amendments to the MERFP Act were introduced into Parliament on 8 April 2024 as part of the Mineral and Energy Resources and Other Legislation Amendment Bill 2024. The Bill was passed by Parliament on 12 June 2024 and received assent on 18 June 2024. Aspects of those approved amendments fall to the *Mineral and Energy Resources (Financial Provisioning) Regulation 2019* (MERFP Regulation) to assist with the operation of the MERFP Act.

The amendments to the MERFP Act include:

- increasing the prescribed estimated rehabilitation cost (ERC) for risk assessments from the existing \$100,000 to \$10 million;
- introducing a fifth risk category of Moderate-High;
- changing the prescribed percentages of risk categories for Moderate (falls from 2.75 per cent to 2.25 per cent) and Moderate-High (at 6.5 per cent);
- increasing the fund threshold for BBB+ or better credit rated entities to \$600 million;
- providing more flexibility for EA Holders that are transitioning to higher risk categories;
- aligning EA assessments by grouping them by the assessed entity and to realign annual review dates so grouped assessments can be reviewed at the same time;
- the introduction of 'Assessment Pathways', a 'Streamlined' assessment for those EAs with an ERC of \$50 million or more will incur a fee 50 percent less than what they would otherwise pay; and
- an internal-to-Government change related to the eligibility of abandoned petroleum and gas sites being eligible for a grant for rehabilitation – the change seeks to make abandoned petroleum and gas sites eligible.

Aspects of the above which fall to the MERFP Regulation to assist with the operation of the MERFP Act are:

- prescribing the percentages for risk categories;
- prescribing the credit rating of BBB+ for the higher fund threshold; and
- listing the fee schedule for risk assessments to include the lower streamlined assessment fee.

Human Rights Issues

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

The subordinate legislation, if enacted, does not limit or otherwise affect human rights relevant to Part 2, Division 2 and 3 of the *Human Rights Act 2019*.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The subordinate legislation does not limit or otherwise affect human rights relevant to section 13 of the *Human Rights Act 2019*.

Conclusion

The subordinate legislation is compatible with human rights because the changes proposed to the MERFP Regulation pertain to the amount of contribution, the fee for assessment and fund threshold limit applied to a company.

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because it does not limit human rights.

DAVID JANETZKI MP
TREASURER
MINISTER FOR ENERGY AND MINISTER FOR HOME OWNERSHIP

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