



Queensland

Coal Mining Safety and Health and Other Legislation Amendment Act 2022

Act No. 29 of 2022

An Act to amend the Coal Mining Safety and Health Act 1999, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Mineral Resources Regulation 2013 and the Petroleum and Gas (Production and Safety) Act 2004 for particular purposes

[Assented to 21 November 2022]



Queensland

Coal Mining Safety and Health and Other Legislation Amendment Act 2022

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Coal Mining Safety and Health and Other Legislation Amendment Act 2022*.

2 Commencement

Part 2 commences on 25 November 2022.

Part 2 Amendment of Coal Mining Safety and Health Act 1999

3 Act amended

This part amends the *Coal Mining Safety and Health Act 1999*.

Note—

See also the amendments in schedule 1.

4 Amendment of s 54 (Appointment of site senior executive)

- (1) Section 54, heading, ‘Appointment’—
omit, insert—

Limitations on appointment

- (2) Section 54(5)—
omit, insert—

- (5) Also, a coal mine operator must not appoint a

[s 5]

person to be site senior executive for a coal mine or a separate part of a surface mine unless the person is an employee of—

- (a) the coal mine operator; or
- (b) an associated entity of the coal mine operator; or
- (c) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

Maximum penalty—500 penalty units.

- (5A) However, subsection (5) does not apply if the only coal mining operations at the coal mine or the separate part of the surface mine are exploration activities under an exploration permit, mineral development licence or mining lease.

- (3) Section 54(5A) and (6)—

renumber as section 54(6) and (7).

5 Replacement of s 57 (Appointment of another site senior executive during temporary absence)

Section 57—

omit, insert—

57 Acting site senior executive

- (1) This section applies if the person appointed as site senior executive for a coal mine or a separate part of a surface mine (the *appointed SSE*)—
- (a) vacates office; or
 - (b) is temporarily absent from duty for more than 14 days.
- (2) If subsection (1)(a) applies, the coal mine operator for the coal mine or the separate part of the surface mine may appoint a person to act as site senior executive during the vacancy.

- (3) If subsection (1)(b) applies, the coal mine operator for the coal mine or the separate part of the surface mine must appoint a person to act as site senior executive during the absence.

Maximum penalty—100 penalty units.

- (4) The coal mine operator must make an appointment under subsection (2) or (3)—

- (a) in writing; and
- (b) as soon as practicable and no later than 14 days after the day the appointed SSE vacates office or is first absent from duty.

Maximum penalty—100 penalty units.

- (5) The coal mine operator must ensure a person appointed under subsection (2) or (3) acts as the site senior executive for a period that ends 12 weeks or less after the day the appointed SSE—

- (a) vacated office; or
- (b) was first temporarily absent from duty.

Maximum penalty—500 penalty units.

- (6) However, subsection (5) does not apply if the person appointed under subsection (2) or (3) is an employee of—

- (a) the coal mine operator; or
- (b) an associated entity of the coal mine operator; or
- (c) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

- (7) Also, subsection (5) does not apply if the only coal mining activities at the coal mine or the separate part of the surface mine for which the person is appointed are exploration activities under an exploration permit, mineral

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development licence or mining lease.

- (8) The person acting as site senior executive is subject to all of the obligations of a site senior executive.
- (9) The coal mine operator is taken to discharge the obligation mentioned in section 41(1)(d) for the period of an appointment under subsection (2).

6 Amendment of s 58 (Other appointments during absences)

- (1) Section 58(2), penalty, ‘for subsection (2)’—

omit.

- (2) Section 58—

insert—

- (3) This section does not apply if the person is—
 - (a) the site senior executive for a coal mine or a separate part of a surface mine; or
 - (b) an open-cut examiner appointed under section 59(1); or
 - (c) a person appointed under section 60(2), (4), (8), (9) or (10); or
 - (d) a ventilation officer appointed under section 61.

7 Replacement of s 59 (Additional requirements for management of surface mines)

Section 59—

omit, insert—

59 Appointment of open-cut examiner

- (1) The site senior executive for a surface mine or a separate part of a surface mine must appoint a person holding an open-cut examiner’s certificate

of competency to be open-cut examiner for each surface mine excavation carried out at the mine or part of the mine.

Maximum penalty—200 penalty units.

- (2) The coal mine operator for the surface mine or the separate part of the surface mine must ensure a person appointed by the site senior executive under subsection (1) is an employee of—
 - (a) the coal mine operator; or
 - (b) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

Maximum penalty—500 penalty units.

59A Acting open-cut examiner

- (1) This section applies if an open-cut examiner appointed under section 59(1)—
 - (a) vacates office; or
 - (b) is temporarily absent from duty.
- (2) If subsection (1)(a) applies, the site senior executive for the surface mine or the separate part of the surface mine may appoint a person to act as open-cut examiner for the surface mine excavations mentioned in section 59(1) during the vacancy.
- (3) If subsection (1)(b) applies, the site senior executive for the surface mine or the separate part of the surface mine must appoint a person to act as open-cut examiner for the surface mine excavations mentioned in section 59(1) during the absence.

Maximum penalty—40 penalty units.

- (4) The coal mine operator for the surface mine or the separate part of the surface mine must ensure a

[s 8]

person appointed by the site senior executive under subsection (2) or (3) acts as open-cut examiner for a period that ends 12 weeks or less after the day the open-cut examiner appointed under section 59(1)—

- (a) vacated office; or
- (b) was first temporarily absent from duty.

Maximum penalty—500 penalty units.

- (5) However, subsection (4) does not apply if the person appointed under subsection (2) or (3) is an employee of—

- (a) the coal mine operator; or
- (b) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

- (6) The coal mine operator for the surface mine or the separate part of the surface mine must ensure a person appointed under subsection (2) or (3) holds an open-cut examiner's certificate of competency.

Maximum penalty—200 penalty units.

- (7) The site senior executive is taken to comply with section 59(1) for the period of an appointment under subsection (2).

8 Amendment of s 60 (Additional requirements for management of underground mines)

Section 60(12), 'employee of the coal mine operator.'—

omit, insert—

employee of—

- (a) for an appointment under subsection (2), (4) or (8)—
 - (i) the coal mine operator; or

-
- (ii) an associated entity of the coal mine operator; or
 - (iii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine; or
- (b) for an appointment under subsection (9) or (10)—
- (i) the coal mine operator; or
 - (ii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

9 Insertion of new s 60A

After section 60—

insert—

60A Acting managers of underground mines

- (1) This section applies if—
- (a) a person (the *appointer*) has appointed another person (the *appointee*) under section 60(2), (4), (8), (9) or (10); and
 - (b) the appointee—
 - (i) vacates office; or
 - (ii) is temporarily absent from duty.
- (2) If subsection (1)(b)(i) applies, the appointer may appoint a person to act in the office of the appointee during the vacancy.
- (3) If subsection (1)(b)(ii) applies, the appointer must appoint a person to act in the office of the appointee during the absence.
- Maximum penalty—40 penalty units.
- (4) The coal mine operator for the underground mine must ensure a person appointed under subsection

[s 9]

(2) or (3) acts in the office of the appointee for a period that is 12 weeks or less after the day the appointee—

- (a) vacated office; or
- (b) was first temporarily absent from duty.

Maximum penalty—500 penalty units.

(5) However, subsection (4) does not apply if the person appointed under subsection (2) or (3) is an employee of—

(a) for an appointment to act in an office under section 60(2), (4) or (8)—

- (i) the coal mine operator for the mine; or
- (ii) an associated entity of the coal mine operator; or
- (iii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine; or

(b) for an appointment to act in an office under section 60(9) or (10)—

- (i) the coal mine operator for the mine; or
- (ii) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

(6) The coal mine operator for the underground mine must ensure a person appointed under subsection (2) or (3) meets the competency requirement for the appointment.

Maximum penalty—

(a) for an appointment to act in an office under section 60(2) or (4)—400 penalty units; or

(b) for an appointment to act in an office under section 60(8), (9) or (10)—200 penalty units.

-
- (7) The appointer is taken to comply with the requirement to appoint a person to the office under section 60(2), (4), (8), (9) or (10) for the period of an appointment under subsection (2).
- (8) In this section—
- competency requirement**, for an appointment under subsection (2) or (3), means—
- (a) for an appointment to act in an office under section 60(2) or (4)—holding a first class certificate of competency for an underground coal mine; or
 - (b) for an appointment to act in an office under section 60(8) or (9)—
 - (i) holding a first or second class certificate of competency for an underground coal mine; or
 - (ii) holding a deputy’s certificate of competency for an underground coal mine; or
 - (c) for an appointment to act in an office under section 60(10)—having the appropriate competencies mentioned in section 60(10).

10 Amendment of s 61 (Appointment of ventilation officer)

Section 61(4), ‘employee of the coal mine operator.’—

omit, insert—

employee of—

- (a) the coal mine operator; or
- (b) an associated entity of the coal mine operator; or
- (c) an entity that employs or otherwise engages 80% or more of the coal mine workers at the mine.

[s 11]

11 Replacement of s 61A (Absence of ventilation officer)

Section 61A—

omit, insert—

61A Acting ventilation officer

- (1) This section applies if—
 - (a) a ventilation officer appointed under section 61 for an underground mine—
 - (i) vacates office; or
 - (ii) is temporarily absent from duty; and
 - (b) there is no other person appointed under that section who can assume the ventilation officer's duties during the vacancy or absence.
- (2) If subsection (1)(a)(i) applies, the underground mine manager may appoint a person to act during the vacancy.
- (3) If subsection (1)(a)(ii) applies, the underground mine manager may assume the duties of the ventilation officer during the absence if—
 - (a) the absence is for not longer than 7 days; and
 - (b) the manager holds a ventilation officer's certificate of competency.
- (4) If subsection (1)(a)(ii) applies and the underground mine manager does not assume the duties of the ventilation officer under subsection (3), the manager must appoint another person to act as the ventilation officer during the absence.
Maximum penalty—200 penalty units.
- (5) However, the underground mine manager must not appoint a person under subsection (2) or (4) unless the person holds a ventilation officer's certificate of competency.

Maximum penalty—200 penalty units.

- (6) Also, the coal mine operator for the underground mine must ensure a person appointed under subsection (2) or (4) acts as the ventilation officer for a period that is 12 weeks or less after the day the ventilation officer appointed under section 61—

- (a) vacated office; or
(b) was first temporarily absent from duty.

Maximum penalty—500 penalty units.

- (7) However, subsection (6) does not apply if the person appointed under subsection (2) or (4) is an employee of—

- (a) the coal mine operator; or
(b) an associated entity of the coal mine operator; or
(c) an entity that employs or otherwise engages 80% or more of the coal mine workers at the coal mine.

- (8) The underground mine manager is taken to comply with section 61(2) for the period of an appointment under subsection (2).

12 Insertion of new pt 20, div 10

Part 20—

insert—

Division 10

Transitional provisions for Coal Mining Safety and Health and Other Legislation Amendment Act 2022

322 Definitions for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

323 Application of new pt 4, div 2

From the commencement, new part 4, division 2 applies in relation to the appointment of a person, whether the appointment was made before, or is made after, the commencement.

324 Particular existing appointees go out of office

- (1) This section applies if, immediately before the commencement, a person (the *appointee*)—
 - (a) was the site senior executive for a coal mine; or
 - (b) held an appointment under former section 59(1), 60(2), (4), (8), (9) or (10) or 61(2).
- (2) If, on the commencement, the appointee could not be appointed under the new appointment provisions, the appointee goes out of office.
- (3) No compensation is payable to the appointee because of this section.
- (4) In this section—

new appointment provisions, for an appointee, means—

 - (a) if the appointee is a person mentioned in subsection (1)(a)—new section 54(5) and (6); or

- (b) if the appointee was appointed under former section 59(1)—new section 59(2); or
- (c) if the appointee was appointed under former section 60(2), (4) or (8)—new section 60(12)(a); or
- (d) if the appointee was appointed under former section 60(9) or (10)—new section 60(12)(b); or
- (e) if the appointee was appointed under former section 61(2)—new section 61(4).

325 Continuation of acting appointments made before commencement

- (1) This section applies if, immediately before the commencement, a person (the *appointee*) held an appointment—
 - (a) under former section 57(1); or
 - (b) under former section 58(2) to perform the duties of—
 - (i) an open-cut examiner under former section 59(1); or
 - (ii) a person appointed under former section 60(2), (4), (8), (9) or (10); or
 - (c) under former 61A(3).
- (2) From the commencement, the appointee is taken to be appointed under—
 - (a) for an appointee mentioned in subsection (1)(a)—new section 57(3); or
 - (b) for an appointee mentioned in subsection (1)(b)(i)—new section 59A(3); or
 - (c) for an appointee mentioned in subsection (1)(b)(ii)—new section 60A(3); or

[s 12]

- (d) for an appointee mentioned in subsection (1)(c)—new section 61A(4).
- (3) This section applies subject to section 326.

326 When particular acting appointments made before commencement taken to commence

- (1) For an appointee mentioned in section 325(1)(a), new section 57(5) applies in relation to the appointee as if—
 - (a) the appointed SSE was first temporarily absent from duty on the day of the commencement; and
 - (b) the appointee had been appointed to act in the office on the day of the commencement.
- (2) For an appointee mentioned in section 325(1)(b)(i), new section 59A(4) applies in relation to the appointee as if—
 - (a) the appointed open-cut examiner was first temporarily absent from duty on the day of the commencement; and
 - (b) the appointee had been appointed to act in the office on the day of the commencement.
- (3) For an appointee mentioned in section 325(1)(b)(ii), new section 60A(4) applies in relation to the appointee as if—
 - (a) the person in whose office the appointee is acting was first temporarily absent from duty on the day of the commencement; and
 - (b) the appointee had been appointed to act in the office on the day of the commencement.
- (4) For an appointee mentioned in section 325(1)(c), new section 61A(6) applies in relation to the appointee as if—

-
- (a) the ventilation officer appointed under former section 61 was first temporarily absent from duty on the day of the commencement; and
 - (b) the appointee had been appointed to act in the office on the day of the commencement.
- (5) This section does not limit the following provisions—
- (a) for subsection (1)—new section 57(6) and (7);
 - (b) for subsection (2)—new section 59A(5);
 - (c) for subsection (3)—new section 60A(5);
 - (d) for subsection (4)—new section 61A(7).

13 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

associated entity has the meaning given by the Corporations Act, section 50AAA.

Part 3 Amendment of Geothermal Energy Act 2010

14 Act amended

This part amends the *Geothermal Energy Act 2010*.

Note—

See also the amendment in schedule 1.

15 Amendment of s 320 (Types of noncompliance action that may be taken)

- (1) Section 320(2)—

[s 16]

omit.

- (2) Section 320(3) to (5)—
renumber as section 320(2) to (4).

16 Insertion of new ch 9, pt 7

Chapter 9—

insert—

Part 7 **Transitional provision for Coal Mining Safety and Health and Other Legislation Amendment Act 2022**

416 Application of new s 320 to noncompliance action

- (1) New section 320 applies in relation to noncompliance action if the event mentioned in section 321(2) or (3) for which the action is taken happens after the commencement.
- (2) In this section—
new section 320 means section 320 as in force from the commencement.

Part 4 **Amendment of Greenhouse Gas Storage Act 2009**

17 **Act amended**

This part amends the *Greenhouse Gas Storage Act 2009*.

Note—

See also the amendment in schedule 1.

18 Amendment of s 379 (Types of noncompliance action that may be taken)

(1) Section 379(2)—

omit.

(2) Section 379(3) to (5)—

renumber as section 379(2) to (4).

19 Insertion of new ch 8, pt 6

Chapter 8—

insert—

Part 6

**Transitional provision
for Coal Mining Safety
and Health and Other
Legislation
Amendment Act 2022**

**452 Application of new s 379 to noncompliance
action**

(1) New section 379 applies in relation to noncompliance action if the event mentioned in section 380(2) or (3) for which the action is taken happens after the commencement.

(2) In this section—

new section 379 means section 379 as in force from the commencement.

[s 20]

Part 5 Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

20 Act amended

This part amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Note—

See also the amendment in schedule 1.

21 Amendment of s 21 (Failure to pay contribution to scheme fund or give surety prevents registration of dealing)

Section 21(1)(a)(i)—

omit, insert—

- (i) a changed holder event under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* for a resource authority that authorises the carrying out of a resource activity for an environmental authority;

Part 6 Amendment of Mineral Resources Act 1989

22 Act amended

This part amends the *Mineral Resources Act 1989*.

23 Insertion of new s 291

After section 290A—

insert—

291 Deferral of rental for first rental period for particular mining leases

- (1) This section applies in relation to a mining lease if, on the grant of the lease, the Minister is satisfied the holder of the lease—
 - (a) proposes to mine a critical mineral under the lease; and
 - (b) proposes to spend an amount that is at least equivalent to the first rent for the lease on start-up and development costs payable in order to start mining operations under the lease; and
 - (c) requests that payment of the first rent for the lease be deferred.
- (2) On the grant of the mining lease, the Minister must defer payment of the first rent for the mining lease.
- (3) It is a condition of the mining lease that the holder must pay the first rent in instalments as provided for by regulation.
- (4) If the lease is cancelled or is terminated through effluxion of time and is not renewed before the first rent is paid in full, the unpaid portion is a debt due to the State.

Note—

In relation to a mining lease that is surrendered, see section 309.

- (5) This section applies despite section 290(1).
- (6) In this section—

critical mineral means a mineral prescribed by regulation to be a critical mineral.

first rent, for a mining lease, means the rental payable for the first rental period of the lease.

first rental period see section 290(1).

[s 24]

24 Insertion of new ch 15, pt 21

Chapter 15—

insert—

**Part 21 Transitional provision
for Coal Mining Safety
and Health and Other
Legislation
Amendment Act 2022**

899 Deferral of first rent under s 291

Section 291 as in force from the commencement applies in relation to a mining lease granted on or after the commencement.

**Part 7 Amendment of Mineral
Resources Regulation 2013**

25 Regulation amended

This part amends the *Mineral Resources Regulation 2013*.

26 Insertion of new ss 98A and 98B

After section 98—

insert—

**98A Payment of deferred rental for first rental
period by instalments—Act, s 291**

- (1) For section 291(3) of the Act, this section provides for the payment of the first rent for a mining lease by instalments.
- (2) The first rent must be paid in 5 instalments.
- (3) The amount payable for each instalment is the

amount equivalent to 20% of the first rent rounded to the nearest cent.

- (4) Each instalment is payable within 20 business days after the following day—
- (a) for the first instalment—the day that is 3 years after the last day of the first rental period;
 - (b) for the second instalment—the day that is 4 years after the last day of the first rental period;
 - (c) for the third instalment—the day that is 5 years after the last day of the first rental period;
 - (d) for the fourth instalment—the day that is 6 years after the last day of the first rental period;
 - (e) for the fifth instalment—the day that is 7 years after the last day of the first rental period.

98B Critical minerals—Act, s 291

For section 291(6) of the Act, definition *critical mineral*, each mineral mentioned in schedule 4A is prescribed to be a critical mineral.

27 Insertion of new sch 4A

After schedule 4—

insert—

Schedule 4A Critical minerals

section 98B

[s 27]

antimony
beryllium
bismuth
cadmium
cerium
cobalt
copper
dysprosium
erbium
europium
gadolinium
gallium
germanium
graphite
hafnium
high purity alumina
holmium
indium
iridium
lanthanum
lithium
lutetium
magnesium
manganese
molybdenum
neodymium
nickel

niobium
osmium
palladium
platinum
praseodymium
promethium
rhenium
rhodium
ruthenium
samarium
scandium
selenium
silica
silver
tantalum
tellurium
terbium
thulium
tin
titanium
tungsten
vanadium
ytterbium
yttrium
zinc
zirconium

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Part 8 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

28 **Act amended**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

29 **Amendment of s 790 (Types of noncompliance action that may be taken)**

Section 790(2)—

omit, insert—

- (2) However, a requirement under subsection (1)(g) may not be made if the event for which the noncompliance action is taken is an event mentioned in section 791(2)(g).

30 **Insertion of new ch 15, pt 29**

Chapter 15—

insert—

Part 29 **Transitional provision for Coal Mining Safety and Health and Other Legislation Amendment Act 2022**

1034 Application of new s 790 to noncompliance action

- (1) New section 790 applies in relation to noncompliance action if the event mentioned in section 791(2) or (3) for which the action is taken

happens after the commencement.

(2) In this section—

new section 790 means section 790 as in force from the commencement.

Part 9 Other amendments

31 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 31

Coal Mining Safety and Health Act 1999

1 Section 53(1), after ‘if’—

insert—

the

2 Section 132(1)(a), after ‘person’s’—

insert—

inspection

Geothermal Energy Act 2010

1 Section 22, note 1, ‘320(3)’—

omit, insert—

320(2)

Greenhouse Gas Storage Act 2009

1 Section 22, note 1, ‘379(3)’—

omit, insert—

379(2)

Mineral and Energy Resources (Common Provisions) Act 2014

1 Schedule 1, section 7(2)(d), after ‘York’—

insert—

Peninsula

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