

NATURAL RESOURCES AND MINES LEGISLATION AMENDMENT BILL 2002

EXPLANATORY NOTES

SHORT TITLE

This Bill may be cited as the *Natural Resources and Mines Legislation Amendment Bill 2002*.

POLICY OBJECTIVES

The policy objectives are:

- to amend *The Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* to address issues that have arisen since the commencement of the Acts, including clarification of certain sections that stakeholders have found confusing or have had unintended consequences;
- correct an incorrect reference in the *Vegetation Management Act 1999*; and
- extend the operation of the Explosives Regulations 1955, under the *Explosives Act 1999*, to allow completion and commencement of replacement provisions in the light of the Coroner's findings regarding the tragic accident at Bray Park.

ALTERNATIVE WAYS OF ACHIEVING THE POLICY OBJECTIVES

There are no alternative ways to achieve the policy objectives.

ASSESSMENT OF THE BENEFITS AND COSTS OF IMPLEMENTATION

The changes to the mining safety and health legislation will have minor cost implications. However, in general, the amendments will allow more cost-effective achievement of the objects of the legislation.

The amendments to other legislation will have negligible cost implications.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

The amendments are consistent with fundamental legislative principles.

CONSULTATION

Extensive consultation with major stakeholders and with industry has taken place in the development of the amendments.

Specific State Governments consultation involved the Department of the Premier and Cabinet, Treasury, Office of Queensland Parliamentary Counsel, Department of Primary Industries, Office of Rural Communities, Department of Local Government and Planning, Environmental Protection Agency, Department of State Development and Department of Emergency Services.

PURPOSE AND INTENDED OPERATION OF EACH CLAUSE

An Act to amend Acts administered by the Minister for Natural Resources and Minister for Mines.

PART 1—PRELIMINARY

Clause 1—Short title

This act may be cited as the *Natural Resources and Mines Legislation Amendment Act 2002*.

PART 2—AMENDMENT TO THE COAL MINING SAFETY AND HEALTH ACT 1999

Clause 2—Act amended in pt 2

Provides that Part 2 of the Bill amends the *Coal Mining Safety and Health Act 1999*.

Clause 3—Amendment to s 9 (Meaning of coal mine)

Section 9(1)

The words “continuously or from time to time” are inserted after “carried on” in paragraphs 9(1)(a), (b) and (c).

The reasons for the change is to ensure that when activities are temporarily stopped on a mining tenure that the provisions of the legislation still apply. This proposed change clarifies the original intent to protect people from the potentially harmful consequences of mining activities irrespective of whether the activities have temporarily ceased.

Clause 4—Amendment to s 10 (Meaning of on-site activities)

Section 10(2)

Add paragraph (ba) constructing and installing railways to this subsection.

This paragraph is added to this subsection to clarify the original intention that the construction of railways to take product off-site is excluded from the provisions of the legislation; the operations of railways are clearly already excluded. No improvement to safety and health is added by applying the requirements of the legislation to the construction of railways, which is carried out by or on behalf of Queensland Rail to exacting standards.

Clause 5—Amendment to s 26 (Meaning of supervisor)

The definition of a supervisor is replaced by now requiring a person to be authorised to be a supervisor and to have a role in implementing the mine safety and health management system; such persons are required to have specific safety and health competencies. As currently worded, any person who “gives instructions to someone else” is a supervisor and as such requires special training; this was not the original intention.

Clause 6—Amendment to s 49 (Notices by holder)

Sections 49(1) and (3)

The proposed amendment requires information to be sent to the inspector in the region rather than the Chief Inspector. This is a logical change as it is the region that makes use of this information and the region is normally the point of contact for each mine, not head office.

Section 49(1)(b)

The words “including its boundary” are inserted after the word “land”. This proposed change is to clarify that the mine is to delineate the surface area associated with the mine.

Clause 7—Amendment of s 50 (Notices by coal mine operators)

Section 50(3)

The proposed amendment requires notices to be sent to the inspector in the region rather than the Chief Inspector. The reason is the same for changes in ss 49(1) and (3). *Refer Clause 6.*

Clause 8—Amendment to s 54 (Appointment of site senior executive)

Section 54(3)(b)

The existing provision allows a Site Senior Executive to be appointed to more than one mine, provided the tenure is an exploration permit. The reasoning was that with this relatively low level of activity a Site Senior Executive could control a number of tenures. This logic equally applies to other types of tenures such as mineral development licences and mining leases, provided activities are limited to exploration. The words “mineral development licence or mining lease” are added after “permit” to allow this.

Section 54(3)

Two additional paragraphs are added – paragraphs (c) and (d). These paragraphs allow a Site Senior Executive for an operating mine or project to take the responsibility for exploration activities on adjacent mining tenures provides that exploration is the only activity being carried out on the adjacent tenure.

Clause 9—Amendment to s 55 (Management structure for safe operations at coal mines)

An additional paragraph (2)(d) and an additional subsection (4) are added. As a consequence of amending s 26 (Meaning of supervisor) it is necessary to make a change to the provisions relating to management structure for safe operations a coal mines. The proposed change requires the mine to keep a list of the names of persons authorised to be supervisors, their competencies and the positions they have been authorised to fill.

Clause 10—Amendment to s 61 (Appointment of ventilation officer)

Section 61(8)

This subsection is repealed, as it is redundant, as it is already covered by the power of an inspector to issue a directive under s 164 (Directive to ensure coal mine worker is competent).

Clause 11—Amendment to s 67 (Plans of coal mine workings)

Section 67(6)

In order to clarify who would be competent in mine surveying, two paragraphs (a) and (b) are added; one for surface mines and one for underground mines. These changes clarify what competencies would be required to be held by a person to certify mine plans and satisfy the requirements of the legislation.

Clause 12—Amendment to s 137 (Special warrants)

Section 137(4)

The words “facsimile warrant” are added after the word “copy”. This terminology is now used in all legislation that refers to special warrants.

Clause 13—Amendment to s 174 (Directives)

Section 174(5)(b)

A new paragraph (aa) is added to (5)(b). This ensures that another inspector cannot withdraw a directive issued by the Chief Inspector.

Clause 14—Amendment to s 198 (Notices of accidents, incidents or diseases)

Section 198(1)

An unintended consequence of this provision as worded is to require immediate notification to an inspector by a Site Senior Executive of a range of accidents and incidents from the minor to major; as worded this provision is unreasonable.

The proposed amendment requires fatal accidents and accidents that endanger a persons life or cause, of likely to cause a permanent injury to health to the reported immediately; others as soon as practical. This requirement would also apply to certain types of high potential incidents such as underground fires; these would be listed in regulation.

The amendment is achieved by rewriting ss 1 to require all serious accidents and high potential incidents to be reported as soon as practical. It will also require putting more stringent conditions on the reporting of fatal accidents, serious accidents involving bodily injury likely to endanger life and high potential incidents of a type to be specified in legislation.

Clause 15—Amendment to s 275 (Representation by coal mine worker)

New s 275

As worded this section allows a coal mine worker to make a “representation” to an inspector and affords the coal mine worker certain protections. The legislation places obligations on manufactures and others who supply equipment and service the mining industry as well as mine and quarry operators. It is logical to extend the protection of this provision to the employees of all people with obligations under the legislation

The new amendment also provides for a person to give permission for their name to be made public.

Clause 16—Amendment to sch 3 (Dictionary)

For clarification two additions have been made to the dictionary:

“Chief Executive Officer” is defined as the chief executive officer of the department administering the legislation. The lack of this definition has confused stakeholders who assume that the chief executive officer referred to is the mining company’s chief executive officer.

“Region” is defined as an administrative region established for the administration of the legislation. With the potential of different business units within a Department having different regions it has been considered necessary to define this term.

PART 3—AMENDMENT TO THE EXPLOSIVES ACT 1999

Clause 17—Act amended in pt 3

Provides that Part 3 of the Bill amends the *Explosives Act 1999*.

Clause 18—Amendment of s 140 (Existing regulations).

Subsection 140(5) is amended to extend the life of the current regulations to June 2003. The current regulations are those that were in force prior to the *Explosives Act 1999* coming into force. The regulations were retained in order to accommodate the extensive recommendations anticipated from the Bray Park Fireworks Inquiry, which were not available at this time. Without this amendment there will be no means of regulating the fireworks industry after 30 June this year.

PART 4—AMENDMENT OF MINING AND QUARRYING SAFETY AND HEALTH ACT 1999

The *Mining and Quarrying Safety and Health Act 1999* and the *Coal Mining Safety and Health Act 1999* are mirrored legislation. However, because of different stakeholders and industry structure some provisions are restricted to one of the Acts.

In general the amendments for the *Mining and Quarrying Safety and Health Act 1999* are the same as those in the sister Act but with different section numbers. For clarity all amendments proposed for the *Mining and Quarrying Safety and Health Act 1999* are listed below. It will be observed wording in many cases is identical to that of the *Coal Mining Safety and Health Act 1999*.

Clause 19—Act amended in pt 4

Provides that Part 4 of the Bill amends the *Mining and Quarrying Safety and Health Act 1999*.

Clause 20—Amendment to s 9 (Meaning of mine)

Section 9(1)

The words “continuously or from time to time” are inserted after “carried on” in paragraphs 9(1)(a), (b) and (c).

The reasons for the change is to ensure that when activities are temporarily stopped on a mining tenure that the provisions of the legislation still apply. This proposed change clarifies the original intent to protect people from the potentially harmful consequences of mining activities irrespective of whether the activities have temporarily ceased.

Clause 121—Amendment to s 11 (Meaning of quarry)

Section 11(1)

The words “continuously or from time to time” are inserted after “excavated”.

Section 11(2)

The words “continuously or from time to time” are inserted after “happens”.

The reasons for the change is to ensure that when activities are temporarily stopped at a quarry the provisions of the legislation still apply. This proposed change clarifies the original intent to protect people from the potentially harmful consequences of mining activities irrespective of whether the activities have temporarily ceased.

Clause 22—Amendment to s 23 (Meaning of supervisor)

The definition of supervisor is replaced to require a person so defined to be authorised to be a supervisor; such persons are required to have specific safety and health competencies. As currently worded, any person who gives instructions to someone is a supervisor and as such requires special training; this was not the original intention.

Clause 23—Amendment to s 37 (Obligations of holder)

Sections 37(2) and (3)

Because the legislation regulates many small mines which is in contrast to the sister Act, provision is included to allow mines employing not more

than 10 people not to require a documented safety and health management system; s 38 obligations of operators applies. The proposed amendment requires the holder to supply to prospective operators of small mines who do not require under legislation to have a documented safety and health management system, information similar to that which must be supplied to larger operators.

Clause 24—Amendment to s 46 (Notices by holder)

Section 46(1)(b)

The words “including its boundary” are inserted after the word “land”. This proposed change is to clarify that the mine is to delineate the surface area associated with the mine.

Clause 25—Amendment to s 47 (Notices by mine operator)

Section 47(1)(a)(ii)

The words “including its boundary” are inserted after the word “land”. This proposed change is to clarify that the mine is to delineate the surface area associated with the mine.

Clause 246—Amendment to s 49 (Appointment of Site Senior Executive)

Section 49(3)(b)

The existing provision allows a Site Senior Executive to be appointed to more than one mine provided the tenure is an exploration permit. The reasoning was that with this relatively low level of activity a Site Senior Executive could control a number of tenures. This logic equally applies to other types of tenures such as mineral development licences and mining leases provided activities are limited to exploration. The words “mineral development licence or mining lease” are added after “permit” to allow this.

Section 49(3)

Three additional paragraphs are added (c), (d) and (e). The first two paragraphs allow a Site Senior Executive for an operating mine or project to take the responsibility for exploration activities on adjacent mining tenures provided that exploration is the only activities being carried out on the adjacent tenure.

The third paragraph allows an operator to appoint a Site Senior Executive to be responsible for a number of small mines where each mine does not employ more than 10 people. It is considered that more effective

safety and health management will be achieved where a company operates a number of small mines or quarries if rather than having a Site Senior Executive appointed at each small operation a more senior person has the responsibility for a number of small operations.

Clause 27—Amendment to s 50 (Management structure for safe operations at mines)

Section 50(1)(a)

The words “and health” are inserted after safety; an omission.

Clause 28—Amendment to s 58 (Plans of mine workings)

Section 58(5)

In order to clarify who would be competent in mine surveying two paragraphs ((a) and (b)) have been added; one for surface mines and one for underground mines. These changes clarify what competencies would be required to be held by a person to certify mine plans and satisfy the requirements of the legislation.

Clause 29—Amendments to s 105 (Site Senior Executive to tell site safety and health representative about certain things)

Section 105(1)(a) (2)

As worded this paragraph commits the Site Senior Executive to tell the industry safety and health representatives about minor incidents; many of these minor incidents are of no interest to the site safety and health representative. The proposed change makes the information, which is required to be passed on the site safety and health representative, more relevant to the officer’s functions and duties. In subsection (2) the word “tell” has been replaced by the word “inform”, tell infers to inform verbally.

Clause 30—Amendment to s 123 (Qualifications for appointment as inspectors)

Section 123(b)

The existing wording prevents persons with equivalent experience in the coal industry being appointed as inspectors under this legislation. This was not the intent and the proposed change remedies this oversight.

Clause 31—Amendment to s 134 (Special warrants)

Section 134(4)

The words “facsimile warrant “ are added after the word “copy”. This terminology is now used in all legislation that refers to special warrants.

Clause 32—Amendment to s 167 (Directive to isolate site)

By insert the word inspection officer, an inspection officer at the site of an accident would have the power to isolate the accident site.

Clause 33—Amendment to s 171 (Directives)

Section 171(5)

An additional paragraph is added that requires that a subordinate cannot withdraw a directive, issued by a Chief Inspector.

Clause 34—Amendment to s 195 (Notices of accidents, incidents or diseases)

Section 195(1)

An unintended consequence of this provision as worded is to require immediate notification of an inspector by a Site Senior Executive of a range of accidents and incidents from the minor to the major; as worded this provision is unreasonable.

The proposed amendment requires fatal accidents and accidents that endanger a persons life or cause or likely to cause a permanent injury to health to be reported immediately; others as soon as practical. This requirement would also apply to certain types of high potential incidents such as underground fires; these would be listed in regulation.

The amendment is achieved by rewriting subsection (1) to require all serious accidents and high potential incidents to be reported as soon as practical and then putting more stringent conditions on reporting of fatal accidents, serious accidents involving bodily injury likely to endanger life and high potential incidents of a type to be specified in legislation.

Clause 35—Amendment to Pt 13, Div 2 (Appeals against Chief Inspectors directives and review decisions)

The amendment corrects a typographical error; the apostrophe was left off the word inspectors.

Clause 36—Amendment to s 254 (Representation by worker)

New section 254

As worded this section allows a mine worker to make a “representation” to an inspector and affords the person certain protections. The legislation places obligations on manufacturers and others who supply equipment and service the mining industry as well as operators. It is logical to extend the protection of this provision to the employees of people with obligations under the Acts; this is the intention of this amendment.

The new amendment also provides for a person to give permission for their name to be made public.

Clause 35 — Amendment to sch 2 (Dictionary)

For clarification two additions have been made to the dictionary:

“*Chief Executive Officer*” is defined as the chief executive officer of the department administering the legislation. The lack of this definition has led to stakeholders confusing the term Chief Executive Officer with of the mining company’s Chief Executive Officer.

“*Region*” is defined as an administrative region established for the administration of the legislation. With the potential of different business units within a Department having different regions it has been considered necessary to define this term

**PART 5—AMENDMENT TO VEGETATION
MANAGEMENT ACT 1999**

Clause 38—Act amended in pt 5

Provide that Part 38 of the Bill amends the *Vegetation Management Act 1999*.

Clause 39—Amendment to s 20 (IDAS codes for the clearing of vegetation)

This amendment corrects a typographical error in the legislation.

*Natural Resources and Mines Legislation Amendment
Bill 2002*
