

# Mining and Other Legislation (Safety and Health Fee) Amendment Bill 2008

## Explanatory Notes

### Introduction

The purpose of the Bill is to establish a framework to levy a fee to recover costs of safety and health activities provided by the State Government to coal mining, mining and quarrying and explosives activities.

### Short Title of the Bill

The short title of the Bill is the *Mining and Other Legislation (Safety and Health Fee) Amendment Bill 2008*.

### Objective of the Bill

The objective of the Bill is to obtain funding from coal mining, mining and quarrying and explosives industries for State provided safety and health measures that are currently funded by Queensland taxpayers.

The Bill amends the *Coal Mining Safety and Health Act 1999*, the *Mining and Quarrying Safety and Health Act 1999* and the *Explosives Act 1999* to provide for a safety and health fee to be levied on mining, quarrying and explosives operations.

### Policy rationale

The Government is committed to maintaining a high standard of safety and health for mining, quarrying and explosives employees. Likewise the community and industry look to the State for a well resourced, expert and independent inspectorate to regulate safety and health standards to ensure acceptable standards are met. Coal mining, mining, quarrying and explosives are potentially hazardous industries and over time have suffered traumatic and fatal accidents and incidences of occupational illness.

The State Government currently funds the safety and health activities provided to Queensland mines, quarries and explosives operations. The

activities provided by the Safety and Health Division of the Department of Mines and Energy (the department) cost in excess of \$26M per year.

The Safety and Health Division regulates industry to ensure safe working conditions for more than 33,000 mining, quarrying and explosives employees. Activities that benefit these industries include:

- Safety inspections and audits;
- Investigation of accidents;
- Research;
- Advice, guidance and circulation of standards; and
- Collection and reporting of safety and health statistics.

The rapid expansion of the mining, quarrying and explosives industries in Queensland, combined with a national skills shortage is contributing to increasing pressure on the delivery of safety and health regulation. It is essential that existing activities and standards are maintained or improved to ensure the safety and health of all employees.

The Bill proposes a safety and health fee by which the cost of safety and health services can be recovered from the mining, quarrying and explosives industries which directly benefit from the compliance, monitoring, investigating and auditing activities.

The introduction of the safety and health fee for the mining, quarrying and explosives industries aligns these industries with Queensland's petroleum and gas industries. Audit and inspections fees paid by petroleum and gas operations have funded State provided safety and health services since 2004.

### **How objectives are achieved**

A framework to levy a safety and health fee is established by authorising amendments to the *Coal Mining Safety and Health Act 1999*, the *Mining and Quarrying Safety and Health Act 1999* and the *Explosives Act 1999*. The amendments propose a regulation making power for a safety and health fee to be levied on coal mining, mining and quarrying and explosives operators.

The amendments also provide for a process to obtain employee information upon which the safety and health fee will be based. The proposed safety and health fee will be calculated using employee information to be

provided by coal mining, mining, quarrying and explosives operations. All coal mining, quarrying and explosives operations will be required to provide information, on a quarterly basis, about the number of their employees and contractors and their employees.

Using this information and the projected cost of the department's safety and health activities, a fee per employee will be calculated. Operations with 10 or less employees will pay a reduced fee per employee.

Other amendments to these Acts will allow existing provisions to provide an audit function to investigate information provided by operators for calculating the fee.

### **Alternative method of achieving policy objectives**

There are no non-legislative methods by which the objects of the Bill can be achieved.

### **Estimated cost for Government implementation**

Estimated costs for implementation will include administration costs to collect the fee.

### **Consistency with Fundamental Legislative Principles**

The Bill was drafted with regard to fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

### **Consultation**

The Department of the Premier and Cabinet and Queensland Treasury were consulted during deliberations as part of the 2008-09 State Budget process.

## Notes on Provisions

### Part 1 Preliminary

#### Short Title

Clause 1 establishes the short title of the Act as the *Mining and Other Legislation (Safety and Health Fee) Amendment Act 2008*.

### Part 2 Amendment of Coal Mining Safety and Health Act 1999

#### Act amended in pt 2

Clause 2 provides that part 2 amends the *Coal Mining Safety and Health Act 1999*.

#### Amendment of s 129D (Functions of authorised officers)

Clause 3 amends section 129D to insert an additional function for authorised officers. An authorised officer appointed by the chief executive will now also be able to investigate whether persons required to provide information to the chief executive under this Act have provided the information and whether the information is correct.

The proposed safety and health fee will be calculated using employee information to be provided by coal mining, mining, quarrying and explosives operations. All coal mining operations will be required to provide information, on a quarterly basis, about the number of their employees and contractors and their employees. This amendment will allow a person appointed by the chief executive of the department to investigate information about employee numbers provided by a coal mining operation or investigate an operation which has not provided the information.

### **Insertion of new s 276A**

Clause 4 inserts a new section 276A into part 17, division 2 to require a person liable for a fee under the Act to provide information to the chief executive for the calculation of the fee, if requested by the chief executive. This amendment places an obligation on a person, who is liable to pay a fee, to provide information to the department's chief executive to allow the chief executive to calculate the fee.

### **Amendment of s 282 (Regulation-making power)**

Clause 5 inserts a new provision in the regulation making powers under section 282 of the *Coal Mining Safety and Health Act 1999* to allow the making of a regulation about assessing, charging and recovering fees payable to cover the cost of the department's activities carried out for the purposes of safety and health for coal mining operations. Clause 5 authorises such a regulation to provide for:

- the type of activities for which fees may be charged and recovered;
- the fees to be charged;
- the way the fees are calculated including, for the first time the fees are charged using criteria in place before the commencement of the regulation;
- the persons that must pay the fees;
- how, when, where and to whom, the fees must be paid;
- the calculation of interest on unpaid fees;
- information to be provided to the chief executive by the persons that must pay the fees;
- how, when, where, and to whom, the information is to be provided;
- investigations by authorised officers to obtain and check the information; and
- reviews and appeals by persons required to pay the fees.

The regulation making power for the fee prevents the regulation being made for the purpose or effect of funding the development or demonstration of technology which will assist in reducing the production

or emission of greenhouse gas from the use of coal. A Deed of Agreement between the State and ACA Low Emissions Technologies Limited ACN (ACALET) for accelerating deployment of clean coal technologies provides that it will be terminated should the State introduce or enforce any new levy, tax, or other impost on Queensland Coal Producers for this purpose.

This amendment makes clear that the regulation making power can not be used to fund the development or demonstration of clean coal technology.

## **Part 3                      Amendment of Explosives Act 1999**

### **Act amended in pt 3**

Clause 6 provides that part 3 amends the *Explosives Act 1999*.

### **Insertion of new s 80A**

Clause 7 inserts a new section 80A to provide for an additional function for inspectors. An inspector appointed by the chief executive will now also be able to investigate whether persons required to provide information to the chief executive under this Act have provided the information and whether the information is correct.

The proposed safety and health fee will be calculated using employee information to be provided by coal mining, mining, quarrying and explosives operations. All explosives operations will be required to provide information, on a quarterly basis, about the number of their employees and contractors and their employees. This amendment will allow a person appointed (inspector) by the chief executive of the department to investigate information about employee numbers provided by an explosives operation or investigate an operation which has not provided the information.

Together with the provision in section 81(2)(b), the department's chief executive may use the instrument of appointment to limit the functions of an explosives inspector to this function.

### **Insertion of new s 132A**

Clause 8 inserts a new section 132A to require a person liable for a fee under the Act to provide information to the chief executive for the calculation of the fee, if requested by the chief executive. This amendment places an obligation on a person, who is liable to pay a fee, to provide information to the department's chief executive to allow the chief executive to calculate the fee.

### **Amendment of s 135 (Regulation-making power)**

Clause 9 inserts a new provision in the regulation making powers under section 135 of the *Explosives Act 1999* to allow the making of a regulation about assessing, charging and recovering fees payable to cover the cost of the department's activities carried out for the purposes of safety and health for explosives operations. Clause 9 authorises such a regulation to provide for:

- the type of activities for which fees may be charged and recovered;
- the fees to be charged;
- the way the fees are calculated including, for the first time the fees are charged using criteria in place before the commencement of the regulation;
- the persons that must pay the fees;
- how, when, where and to whom, the fees must be paid;
- the calculation of interest on unpaid fees;
- information to be provided to the chief executive by the persons that must pay the fees;
- how, when, where, and to whom, the information is to be provided;
- investigations by authorised officers to obtain and check the information; and
- review and appeals by persons required to pay the fees.

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## **Part 4                      Amendment of Mining and Quarrying Safety and Health Act 1999**

### **Act amended in pt 4**

Clause 10 provides that part 4 amends the *Mining and Quarrying Safety and Health Act 1999*.

### **Amendment of s 126D (Functions of authorised officers)**

Clause 11 amends section 126D to insert an additional function for authorised officers. An authorised officer appointed by the chief executive will now also be able to investigate whether persons required to provide information to the chief executive under this Act have provided the information and whether the information is correct.

The proposed safety and health fee will be calculated using employee information to be provided by coal mining, mining, quarrying and explosives operations. All mining and quarrying operations will be required to provide information, on a quarterly basis, about the number of their employees and contractors and their employees. This amendment will allow a person appointed by the chief executive of the department to investigate information about employee numbers provided by a mining and/or quarrying operation or investigate an operation which has not provided the information.



### **Insertion of new s 256A**

Clause 12 inserts a new section 256A into part 16, division 2 to require a person liable for a fee under the Act to provide information to the chief executive for the calculation of the fee, if requested by the chief executive. This amendment places an obligation on a person, who is liable to pay a fee, to provide information to the department's chief executive to allow the chief executive to calculate the fee.

### **Amendment of s 262 (Regulation-making power)**

Clause 13 inserts a new provision in the regulation making powers under section 262 of the *Mining and Quarrying Safety and Health Act 1999* to allow the making of a regulation about assessing, charging and recovering fees payable to cover the cost of the department's activities carried out for the purposes of safety and health for mining and quarrying operations. Clause 13 authorises such a regulation to provide for:

- the type of activities for which fees may be charged and recovered;
- the fees to be charged;
- the way the fees are calculated including, for the first time the fees are charged using criteria in place before the commencement of the regulation;
- the persons that must pay the fees;
- how, when, where and to whom, the fees must be paid;
- the calculation of interest on unpaid fees;
- information to be provided to the chief executive by the persons that must pay the fees;
- how, when, where, and to whom, the information is to be provided;
- investigations by authorised officers to obtain and check the information; and
- review and appeals by persons required to pay the fees.

The regulation making power for the fee prevents the regulation being made for the purpose or effect of funding the development or demonstration of technology which will assist in reducing the production

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