



Queensland

Natural Resources and Mines Legislation Amendment Regulation (No. 1) 2013

Explanatory Notes for SL 2013 No. 37

made under the

Fossicking Act 1994

Geothermal Energy Act 2010

Greenhouse Gas Storage Act 2009

Mineral Resources Act 1989

Petroleum Act 1923

Petroleum and Gas (Production and Safety) Act 2004

General outline

Short title

Natural Resources and Mines Legislation Amendment Regulation (No. 1) 2013.

Authorising law

Section 107 of the *Fossicking Act 1994*

Section 385 of the *Geothermal Energy Act 2010*

Section 429 of the *Greenhouse Gas Storage Act 2009*

Section 417 of the *Mineral Resources Act 1989*

Section 149 of the *Petroleum Act 1923*

Section 859 of the *Petroleum and Gas (Production and Safety) Act 2004*

Policy objectives and the reasons for them

The objectives of the proposed regulation are to update the Mineral Resources Regulation 2003, Petroleum and Gas (Production and Safety) Regulation 2004, Petroleum Regulation 2004, Geothermal Energy Regulation 2012, Greenhouse Gas Storage Regulation 2010 and the Fossicking Regulation 2009 to support the commencement of the *Mining and Other Legislation Amendment Act 2013* and the remaining provisions of the *Mines Legislation (Streamlining) Amendment Act 2012*.

Part of the government's six month action plan for July-December 2012 was to review legislation and regulation for the small scale mining sector to reduce red tape. This has been achieved under the *Mining and Other Legislation Amendment Act 2013* that provides for a small scale mining code to be made under the Mineral Resources Regulations 2003.

The *Mining and Other Legislation Amendment Act 2013* also amends the *Mineral Resources Act 1989* and the *Fossicking Act 1994* to streamline regulatory officer roles and transfer power and functions from the mining registrar to the chief executive or Minister. Consequential amendments are required to the subordinate regulations.

Separate amendments to the *Petroleum and Gas (Production and Safety) Act 2004* by the *Mining and Other Legislation Amendment Act 2013* allow incidental activities to be conducted on a pipeline licence that relate to other particular petroleum authorities and provides for a safety requirement to be made under the regulations about these activities.

Commencement of remaining sections of the *Mines Legislation (Streamlining) Amendment Act 2012* amends the *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004*, *Petroleum Act 1923*, *Geothermal Energy Act 2010* and the *Greenhouse Gas Storage Act 2009* to implement the final phase of streamlining initiatives. Amendment of the subordinate legislation to these Acts is required to reflect changes to common dealings provisions and prescribed fees and a modernising restructure of the *Mineral Resources Act 1989*.

The application fees for dealings are new fees and will be subject to the government's indexation policy. These new fees were part of the department's 2012 Budget Submission to the Cabinet Budget Review Committee. Approval was provided by the Deputy Premier, as the Acting Treasurer.

The regulation also amends the *Petroleum and Gas (Production and Safety) Regulation 2004* to update references to various Australian Standards and codes of practice that are referenced in the regulation.

Achievement of policy objectives

The regulatory amendments are required to:

- Update regulatory fees and related provisions for the commencement of common dealings processes across all resources regulations.
- Replace references to mining registrar with the relevant replacement officer under the Mineral Resources Regulation 2003 and the Fossicking Regulation 2009.
- Make a Small Scale Mining Code under the Mineral Resources Regulation 2003 that will apply to mining claims and exploration permits operating without an environmental authority.
- Amend the prohibited machinery provisions under the Mineral Resources Regulation 2003 to accommodate changes to the *Mineral Resources Act 1989* that will permit machine mining on particular mining claims.
- Make a safety requirement about activities conducted on a pipeline licence related to another particular petroleum authority to ensure those activities do not conflict with the safe operation of the pipeline.
- Update references to various Australian standards and codes of practice that are referenced in the Petroleum and Gas (Production and Safety) Regulation 2004.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the following policy objectives of authorising law:

- It provides an administrative framework to expedite and regulate prospecting and exploring for and mining of minerals pursuant to section 2(f) of the *Mineral Resources Act 1989*;

- It creates an effective and efficient regulatory system for the carrying out of petroleum activities and the use of petroleum and fuel gas, pursuant to section 3(1)(c) of the *Petroleum and Gas (Production and Safety) Act 2004*;
- It makes better provision for encouraging and regulating mining for petroleum and natural gas in the State and the conveying of petroleum and gas, wherever recovered, pursuant to the object of the *Petroleum Act 1923*;
- It creates a regulatory system for the carrying out of activities relating to geothermal tenures, pursuant to section 3(2)(b) of the *Geothermal Energy Act 2010*; and
- It creates a regulatory system for the carrying out of activities relating to GHG authorities, pursuant to section 3 of the *Greenhouse Gas Storage Act 2009*.

Inconsistency with policy objectives of other legislation

There is no inconsistency with policy objectives of other legislation.

Alternative ways of achieving policy objectives

Not amending the subordinate legislation would result in an incomplete regulatory framework, which includes the specification of fees payable where a fee is prescribed for the administration of dealings, causing uncertainty to both government and industry.

Benefits and costs of implementation

The making of the Small Scale Mining Code will allow eligible holders of mining claims for opals and gemstones and small scale mineral explorers to operate without the need for an environmental authority reducing regulatory costs.

Updating subordinate legislation to reflect new dealings provisions introduced by the *Mines Legislation (Streamlining) Amendment Act 2012* will allow the benefits of these changes to be realised through a new fee structure and related amendments.

Making a safety requirement under the Petroleum and Gas (Production and Safety) Regulation 2004 will ensure these new activities are regulated to ensure safe pipeline operations. The safety requirement will make it clear that the holder of the pipeline licence must ensure that an incidental activity related to another authority does not compromise the safe operation of the pipeline in accordance with Australian Standard for Pipelines - Gas and liquid petroleum (AS 2885).

Costs for implementation will be absorbed within existing departmental resources.

Consistency with fundamental legislative principles

The amendment regulation has been drafted with regard to and is considered not to breach any fundamental legislative principles.

Consultation

The North Queensland Miner's Association, Queensland Sapphire Producer's Association, Quilpie Opal Miner's Association, Yowah Opal Miner's Community Services Association, the Queensland Boulder Opal Association and the Queensland Small Scale Mining Council, who together are considered to reflect the broad views of the small scale mining sector within Queensland, have been consulted on the Small Scale Mining Code.

Association representatives were formally consulted over a two day workshop about reforms to small scale mining where a draft code was circulated. In principle support was provided for the code and the draft conditions presented. A more developed draft of the code was prepared by the department and distributed to targeted stakeholder groups for comment including the small scale mining associations and individual small scale miners, wider mining industry peak bodies, rural and agricultural landowner associations, environmental and natural resource interest groups and relevant local governments.

The Australian Petroleum Production and Exploration Association, Australian Pipeline Industry Association and the Queensland Resources Council were notified of the proposed new safety requirement for pipeline licences incidental activities.

Updates to certain references to Australian Standards and codes of practice were requested by industry.

Results of Consultation

Feedback considered during development of the code's mandatory conditions was received from the Queensland Murray-Darling Committee, Local Government Association of Queensland, small scale mining associations and an individual from the opal mining industry.

Support of the code has been expressed by the Queensland Small Mining Council and the North Queensland Miners Association. The opal industry individual did not support the code in its current form and expressed concern that the development of the code was rushed and its contents require wider negotiation. The Local Government Association of Queensland suggested that a mandatory condition be made for agreement to be sought from local government to construct new roads. Holders of mining tenements are entitled, subject to agreed terms of compensation with the landowner, to construct private roads in the area of the authority without approval of the local government. However, consent is required before a mining claim can be granted over a road. The Queensland Murray-Darling Committee raised concern that there are a large number of outstanding issues pertaining to existing mining operations that have not been addressed including assumptions that small scale mining operations are low risk and the mandatory conditions are not adequately stringent.

No negative feedback was received regarding the safety requirement for pipeline licences.

Changes to AS2885 have been anticipated by pipeline industry for some time particularly to deal with hydrostatic testing of large diameter pipes currently being built in Queensland. No negative feedback was received regarding updates to Australian Standards and codes of practice.

Reasons for non-inclusion of information

All relevant information has been included.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Natural Resources and Mines.

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