

# Environmental Protection Amendment Regulation (No. 2) 2013

Explanatory Notes for SL 2013 No. 271

made under the

*Environmental Protection Act 1994*

## General Outline

### Short title

*Environmental Protection Amendment Regulation (No. 2) 2013.*

### Authorising law

The regulation is made under section 580 of the *Environmental Protection Act 1994*.

### Policy objectives and the reasons for them

The regulation amends the *Environmental Protection Regulation 2008* to:

- prescribe conditions for small scale mining activities and define ‘designated environmental areas’ to support the definition of small scale mining activities, following reforms introduced by the *Mines and Other Legislation Amendment Act 2013*;
- remove the devolution of administering particular environmentally relevant activities (ERAs) for some local governments following reforms introduced by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*; and
- make minor amendments to remove inconsistencies, set eligibility criteria and standard conditions, and insert a fee for a temporary emissions license.

### Achievement of policy objectives

The policy objectives are achieved by inserting provisions that prescribe the conditions for small scale mining activities and defining “designated environmental areas”, amending the provision for the devolution of particular environmentally relevant activities so

administration of these activities is not devolved to some smaller local governments, and making other minor amendments.

Further details on the policy objectives and how each amendment achieves the policy objectives are provided in the Notes on Provisions below.

## **Consistency with policy objectives of authorising Act**

The Amendment Regulation is consistent with the object of the *Environmental Protection Act 1994* that is, to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (*ecologically sustainable development*).

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

There is no alternative approach. These matters, and the statutory instruments, are established in legislation and legislative amendments are the only option to give effect to the policy objectives.

## **Benefits and costs of implementation**

This Amendment Regulation will provide certainty regarding rehabilitation and financial assurance requirements for small scale mining activity operators to meet the objectives of the *Mines and Other Legislation Amendment Act 2013*.

The amendment regulation makes 19 eligibility criteria for prescribed ERAs. These eligibility criteria will allow applicants to make a standard application for an environmental authority for these activities. Standard applications provide applicants certainty regarding the operational conditions and the application outcomes for an environmental authority.

The removal of the devolution of administering particular environmentally relevant activities (ERAs) for some local governments following reforms introduced by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* will reduce administrative responsibilities and costs for local government.

Implementation will be achieved within current departmental budgets.

## **Consistency with fundamental legislative principles**

Section 24(1)(i) of the *Legislative Standards Act 1992* was considered during the drafting of this regulation and this regulation is consistent with fundamental legislative principles. The amendments made by the Amendment Regulation must be in subordinate legislation because the provisions being amended are in subordinate legislation.

## Consultation

Consultation on the *Mines and Other Legislation Amendment Act 2013* occurred through the Agriculture, Resources and Environment Committee. Consultation on the development of the prescribed conditions and definition of designated environmental areas occurred with the Department of Natural Resources and Mines and small scale mining industry representatives.

In accordance with section 318 of the *Environmental Protection Act 1994*, the draft eligibility criteria and standard conditions for the 19 ERAs were published on the department's website for public scrutiny and the opportunity for all sectors of the community to make submissions and comment. The documents were published on 5 July 2013 and the submission period ended on 19 August 2013.

For the local government devolutions, consultation occurred as part of the Greentape Reduction project through a Draft Regulatory Assessment Statement (RAS) released for public consultation for six weeks. Following government approval of the deletions of ERAs local governments were notified of the possible proposal in a letter from the Director-General of EHP in leading up to the commencement of the Greentape Reduction amendments.

## Reasons for non-inclusion of information

This explanatory note includes all of the information required by section 24(4) of the *Legislative Standards Act 1992*.

## Notes on provisions

### Clause 1                      Short title

This clause states that the short title of this legislation is the *Environmental Protection Amendment Regulation (No. 2) 2013*.

### Clause 2                      Commencement

This clause states that clauses 6, 7 and 12 of this Amendment Regulation commence on 1 January 2014. The later commencement of these sections ensures the orderly transfer of responsibilities from local governments to the State for the removal of the devolution of administering particular environmentally relevant activities (ERAs) for some local governments.

### Clause 3                      Regulation amended

This clause states that this part amends the *Environmental Protection Regulation 2008*.

### Clause 4                      Amendment of s 16 (Meaning of concurrence ERA)

This clause inserts a new subsection to section 16 of the *Environmental Protection Regulation 2008* to exclude a mobile and temporary environmentally relevant activity (ERA) from being a "concurrence ERA".







