

Land and Other Legislation Amendment Regulation (No. 1) 2014

Explanatory notes for SL2014 No. 117

made under the

Land Act 1994

Petroleum and Gas (Production and Safety) Act 2004

General Outline

Short title

Land and Other Legislation Amendment Regulation (No. 1) 2014

Authorising law

Section 448 of the *Land Act 1994* and sections 175AA(c) and 859 of the *Petroleum and Gas (Production and Safety) Act 2004*

Policy objectives and the reasons for them

The policy objectives of the *Land and Other Legislation Amendment Regulation (No. 1) 2014* (the Regulation) are to:

- amend the *Land Regulation 2009* to support the significant and comprehensive reform of State land tenure in Queensland introduced by the *Land and Other Legislation Act 2014*; and
- provide petroleum lease holders with a longer timeframe to apply for a change to the production commencement day.

State land tenure reform

The state land tenure reform's main objective is to deliver more secure property rights to the states rural and tourism lessees to provide these lessees with the necessary confidence to encourage further investment and underpin economic growth and sustainable growth in local communities. Previously concerns had been raised about land rents and the affordability of rural leasehold land which had a substantial effect on the viability of the rural industry. Security of tenure was also a major issue for tourism leases. The amendments will also increase the State's capacity to better respond to lessees suffering hardship due to natural disasters or significant downturns in the economy.

Changing the production commencement day

Petroleum lease holders are required to commence production no later than two years after the lease takes effect or as otherwise approved. The specification of a start date for the commencement of production is to ensure that a petroleum lease is granted for the purpose of petroleum production and not as a means to retain land. Commencing production on the specified day is a mandatory condition for petroleum leases. Contravention of the Act exposes the holder to compliance action.

Petroleum lease holders may apply to have the production commencement day extended if the application is made no later than one year before production is to start and the other criteria for application are satisfied.

Submitting the application one year before production might not be possible in all situations due to a number of reasons including:

- complex and uncertain infrastructure construction timeframes;
- residual uncertainty over production rates from individual wells within a lease as it is difficult to know how much petroleum each well will produce until the well has been drilled and tested; and
- lease holders may need to adjust production rates to meet the needs of overlapping coal tenement holders.

At the moment there is no mechanism for lease holders to apply for an extension less than 12 months prior to the scheduled production commencement day and therefore there is no mechanism to bring the lease back into compliance once the 12 month deadline is missed.

Achievement of policy objectives

State land tenure reform

The Regulation will achieve its objective by amending the *Land Regulation 2009* by providing a new methodology to determine the purchase price for leases being used for primary production based on net present value which will deliver fairer and more affordable prices for those who consider the option of converting their leases to freehold. Rural rents for primary production term leases, licences and permits will have their rents rate halved and the present rental cap of increases reduced to 10 percent.

The Regulation will amend the rental hardship provisions to allow for the Governor in Council to proclaim an area or a class of tenures that have been severely affected by a major event such as a natural disaster or adverse economic condition for hardship relief without the need for individual applications and evidence from lessees.

Changing the production commencement day

The *Land and Other Legislation Amendment Act 2014* amended the *Petroleum and Gas (Production and Safety) Act 2004* to provide a head of power for a regulation to prescribe a time period shorter than the 12 month period required under the *Petroleum and Gas (Production and Safety) Act 2004* by which lease holders can apply for a change to the production commencement day.

Prescribing three months in the Regulation will provide petroleum lease holders with more time to apply for an extension while still allowing sufficient time for the Department of Natural Resources and Mines to assess the application.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the *Land Act 1994* by ensuring that land is managed for the benefit of the people of Queensland which will allow for economic and sustainable growth in local communities.

The Regulation is consistent with the policy objectives of the *Petroleum and Gas (Production and Safety) Act 2004* by creating an effective and efficient regulatory system for the carrying out of petroleum activities.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation. The Regulation will allow for economic and sustainable growth in local communities.

Benefits and costs of implementation

State land tenure reform

The benefit of the Regulation is that it will deliver more secure property rights to the states rural and tourism lessees to provide these lessees with the necessary confidence to encourage further investment and underpin economic growth and sustainable growth in local communities.

There will be minor costs associated with changes to systems and information material to provide for these reforms. These costs will be met within the Departments existing budget allocation

Changing the production commencement day

The amendment to the *Petroleum and Gas (Production and Safety) Regulation 2004* will provide petroleum lease holders with an additional nine months to apply for a change to the production commencement day.

Consistency with fundamental legislative principles

The Regulation has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. The Regulation is consistent with fundamental legislative principles.

Consultation

Consultation was undertaken with the Department of the Premier and Cabinet and Queensland Treasury and Trade. These agencies support the Regulation.

The Community and industry expressed their views and made submissions about state land to the Land Tenure Inquiry. The amendment regulation supports many of those views.

The Australian Petroleum Production and Exploration Association supports the amendment to the Petroleum and Gas (Production and Safety) Regulation 2004.

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