

Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016

Explanatory notes for SL 2016 No. 214

made under the

Mineral and Energy Resources (Common Provisions) Act 2014

General Outline

Short title

Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016

Authorising law

Section 211 of the *Mineral and Energy Resources (Common Provisions) Act 2014*

Policy objectives and the reasons for them

Parts of the *Mineral and Energy Resources (Common Provisions) Act 2014* commenced on 27 September 2016 that, among other policy objectives, establish a new framework for the management of overlapping coal and coal seam gas resource authorities (the new framework) in Queensland.

The new framework supersedes the old overlapping regime under the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004*. It includes transitional provisions to facilitate a smooth transition from the overlapping tenure regime to the new framework.

Coordination arrangements under the old overlapping tenure regime detail how coal and coal seam gas companies will cooperate to develop resources in an overlapping area. Negotiation for coordination arrangements can be lengthy and pose a significant cost to resource companies.

The intent of section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014* is to provide that where there is a mining lease application for coal overlapping a petroleum lease application and a coordination arrangement is

approved by the Minister before commencement of the *Mineral and Energy Resources (Common Provisions) Act 2014*, then the overlapping resource authorities will continue to be administered under the old regime for overlapping tenures. This would ensure that commencement of the new framework does not re-open advanced negotiations between parties by expressly keeping these overlapping relationships under the old regime.

However, if there is no approved coordination arrangement, then section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014* provides that overlapping resource authorities will instead be administered under the new framework. This would include meeting mandatory obligations such as the giving of an advance notice and negotiating for a joint development plan to set out cooperative arrangements for the overlapping area.

There have been some concerns raised about whether section 241A of the *Mineral and Energy Resources (Common Provisions) Act* operated as intended.

The primary objective of the *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* is to clarify that, where there is a mining lease application for coal overlapping a petroleum lease application and a coordination arrangement is approved by the Minister under section 236(1) of the *Petroleum and Gas (Production and Safety) Act 2004*, before the commencement of the *Mineral and Energy Resources (Common Provisions) Act 2014*, then the tenures will continue to be administered under the old regime for overlapping tenures. This is regardless of whether or not the Minister's approval has taken effect under section 236(4) of the *Petroleum and Gas (Production and Safety) Act 2004*.

As per section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014*, tenure holders have the option to agree to opt into the new overlapping framework.

The *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* also makes minor clarifications for the obligations of resource authority holders if they choose to be transitioned into the new overlapping framework under section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Achievement of policy objectives

To achieve the objectives, the *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* includes a transitional provision to ensure the intent of section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014* is achieved. This includes provision to keep a mining lease application for coal overlapping a petroleum lease application, where there is a coordination arrangement approved by the Minister, under the old overlapping tenure regime.

The *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* also makes minor clarifications to the obligations for resource authority holders if they are transitioned into the new framework under section 241A of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Consistency with policy objectives of authorising law

The *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* is consistent with policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

No significant administrative costs will be associated with implementing the *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016*.

Consistency with fundamental legislative principles

The *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Although the *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* applies retrospectively it does not adversely affect rights or liberties or impose new obligations retrospectively. It clarifies which legislation the resource authority applications are to be administered under, and requirements if resource authorities are to be administered under the new framework.

Section 211 of the *Mineral and Energy Resources (Common Provisions) Act 2014* provides for a transitional regulation to be retrospective to a date no earlier than commencement of that section on 27 September 2016. As the transitional regulation relates to provisions that commenced on the same date, it is appropriate the *Mineral and Energy Resources (Common Provisions) Transitional Amendment Regulation 2016* applies to relevant resource authorities.

Consultation

Consultation has occurred with the Queensland Productivity Commission.