

# **Petroleum and Gas (Safety) and Other Legislation Amendment Regulation 2019**

Explanatory notes for SL 2019 No. 89

made under the

*Coal Mining Safety and Health Act 1999*

*Petroleum Act 1923*

*Petroleum and Gas (Production and Safety) Act 2004*

## **General Outline**

### **Short title**

*Petroleum and Gas (Safety) and Other Legislation Amendment Regulation 2019*

### **Authorising law**

Section 282 of the *Coal Mining Safety and Health Act 1999*

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 policy objectives of the *Petroleum and Gas (Safety) and Other Legislation Amendment Regulation 2019* (Amendment Regulation) is to amend the *Coal Mining Safety and Health Regulation 2017* (CMSH Regulation), the *Petroleum and Gas (General Provisions) Regulation 2017* and the *Petroleum and Gas (Safety) Regulation 2018* (P&G Safety Regulation) to:

- prescribe requirements for information notices;
- prescribe that a gas work licence is not required for the replacement of a pigtail connected to a gas cylinder where the replacement is carried out under the safety management system, and by a person assessed under the safety management system as competent;
- clarify that petroleum leases granted under the *Petroleum Act 1923* and replaced under the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) are not subject to additional safety requirements in overlapping tenure areas;
- remove redundant section references;
- update the reference to Australian standard AS2885.

### Information notices

The new section 694A of the P&G Act requires that the executive safety manager and the operator of an operating plant must give the Chief Inspector of Petroleum and Gas information notices. These notices modernise and streamline safety reporting requirements previously required in an annual safety report or commissioning notice. This will ensure that safety information is provided in a timely and consistent way to the chief inspector. Amendments are required to the P&G Safety Regulation to prescribe the information to be contained in the notice that is necessary to ensure and promote the safety of the operating plant; the way a notice is to be given; and the timing for providing a notice.

### Gas work licence exemption

The delivery of liquefied petroleum gas (LPG) to consumers using replacement gas cylinders is defined as operating plant under section 670 of the P&G Act. Routine cylinder replacement results in the wear and tear of pigtail fittings used to connect the gas cylinder to customer's gas systems. A pigtail is the tubing connecting gas bottles to a changeover valve and can be made of solid copper, rubber or braided metal and are defined in AS/NZS 1596:2014. Currently, the replacement of a pigtail connected to a gas cylinder is interpreted as gas work under section 725 of the P&G Act.

The *Land, Explosives and Other Legislation Amendment Act 2019* (LEOLA Act) amended section 726 of the P&G Act to provide that a gas work licence is not required for gas work carried out by a person under a safety management system for an operating plant in circumstances prescribed by regulation.

Amendment to the P&G Safety Regulation is required to prescribe that a gas work licence is not required for the replacement of a pigtail connected to a gas cylinder where the replacement is carried out under the safety management system for an LPG delivery network; and carried out by a person assessed, under the safety management system for the network, as competent to replace a pigtail.

### Additional safety requirements for replacement petroleum leases originally granted under the *Petroleum Act 1923*

The overlapping tenure framework which commenced on 27 September 2016 intended to capture petroleum leases granted under the P&G Act, under which coal seam gas is proposed to be produced.

The P&G Safety Regulation and the CMSH Regulation include additional safety requirements which only apply to overlapping areas if they are subject to a petroleum lease granted after the start date (27 September 2016).

The P&G Act (Chapter 15, part 3, division 7) contains transitional provisions to migrate petroleum leases granted under the *Petroleum Act 1923* to the P&G Act through a grant application. Under these provisions any replacement petroleum leases subsequent to the original petroleum lease are considered to be granted. If this has occurred after the commencement of the overlapping tenure framework (i.e. after 27 September 2016), the replacement petroleum lease would be subject to the

additional safety provisions in the P&G Safety Regulation and the CSMH Regulation. The policy intent was that the replacement petroleum leases should not be subject to the additional safety requirements in overlapping areas. Amendments are required to the P&G Safety Regulation and the CSMH Regulation to clarify this intent.

### Removal of redundant references

The LEOLA Act repeals section 690 of the P&G Act regarding the contents for annual safety reports. References to this section are to be removed from the P&G Safety Regulation and the *Petroleum and Gas (General Provisions) Regulation 2017*.

### Updated reference to AS2885

The safety requirements established under the Australian standard, AS 2885 – ‘Pipelines—gas and liquid petroleum’, are necessary for the protection of the general public, operating personnel, the environment, as well as the protection of the pipeline against accidental damage.

Following a public consultation process undertaken by Standards Australia, a new part was added to the AS 2885 suite of standards - AS/NZS 2885.6 Part 6: Pipeline safety management. Schedule 7 of the P&G Safety Regulation includes a definition of AS2885. Amendment is required to the definition of AS2885 contained in schedule 7 to provide for the new part 6.

## **Achievement of policy objectives**

### Information notices

The Amendment Regulation inserts a new section 18A into the P&G Safety Regulation to prescribe:

- that notices under section 694A of the P&G Act must be provided online;
- the information about an operating plant being commissioned or decommissioned that is necessary for ensuring and promoting the safety of the operating plant;
- that notices relating to information that the operating plant is being commissioned are to be provided at least 20 business days before the commissioning; and
- that notices relating to information that the operating plant is being decommissioned are to be provided within 20 business days after the decommissioning.

### Gas work licence exemption

The Amendment Regulation inserts a new section 123A into the P&G Safety Regulation to provide a gas work licence is not required to replace a pigtail connected to a gas cylinder if the replacement is carried out under a safety management system for a LPG delivery network; and is carried out by a person assessed, under the safety management system for the network, as competent to replace a pigtail.

### Additional safety requirements for replacement petroleum leases originally granted under the *Petroleum Act 1923*

The Amendment Regulation amends section 53 of the P&G Safety Regulation and section 12BC of the CMSH Regulation to clarify that petroleum leases granted under the *Petroleum Act 1923* and replaced under the P&G Act are not subject to the additional safety requirements in overlapping tenure areas.

### Removal of redundant references

The Amendment Regulation removes section 58 of the P&G Safety Regulation and amends section 19 of the *Petroleum and Gas (General Provisions) Regulation 2017*, to remove reference to the redundant section 690 of the P&G Act regarding annual safety reports.

### Updated reference to AS2885

The Amendment Regulation amends schedule 7 of the P&G Safety Regulation to update the definition of AS 2885 to include AS/NZS 2885.6 Part 6 'Pipeline safety management'.

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

The Amendment Regulation is consistent with the main objects of the *Coal Mining Safety and Health Act 1999*, the *Petroleum Act 1923* and the P&G Act.

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

There is no inconsistency with policy objectives of other legislation.

## **Benefits and costs of implementation**

The amendments regarding information notices modernise and streamline safety reporting requirements. The use of online approved forms and the inclusion of timeframes for reporting ensures that safety information is provided in a consistent and timely way to the chief inspector.

The amendment to prescribe that gas work licences are not required for the replacement of a pigtail connected to a gas cylinder reduces the regulatory burden on industry requiring licensed gasfitters for this task. The amendment does not adversely affect safety outcomes as the replacement must be undertaken in accordance with the safety management system for a LPG delivery network, and by a person assessed as competent under the safety management system for the network.

The amendments to clarify that petroleum leases granted under the *Petroleum Act 1923* and replaced under the P&G Act are not subject to the additional safety

requirements in overlapping tenure areas addresses the original policy intent and provides certainty to stakeholders.

The amendments to update redundant references and amend the reference to AS 2885 ensures that the legislation continues to be contemporary and effective in its operation.

No significant administrative costs will be associated with implementing the amendment regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is not considered to breach any fundamental legislative principles.

## **Consultation**

Extensive consultation occurred with industry, including the Australian Petroleum Production and Exploration Association and the Queensland Resources Council about the amendments prior to the passage of the LEOLA Act.

The regulation amendments relating to information notices and the gas work licence exemption were included in the consultation draft of the remake of the P&G Safety Regulation. The review of the P&G Safety Regulation involved consultation with industry representatives and members of the Petroleum and Gas Inspectorate's Stakeholder Engagement Committees, comprising representatives of the upstream, distribution and downstream sectors of Queensland's petroleum and gas industry.

Stakeholders have been supportive of the amendments.

The Office of Best Practice Regulation within the Queensland Productivity Commission has advised that the proposals regarding information notices and the gas work licence exemption are unlikely to result in significant adverse impacts and that no further regulatory impact assessment is required under the *Queensland Government Guide to Better Regulation*. In relation to the additional safety requirements in overlapping areas, the Office of Best Practice Regulation has advised that the proposal is excluded from further regulatory impact analysis under category (k) – Regulatory proposals designed to reduce the burden of regulation, or that clearly to not add to the burden, and it is reasonably clear there are no significant adverse impacts.

In relation to other minor amendments, the Department of Natural Resources, Mines and Energy applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (g) – Regulatory proposals that are of a machinery nature).