

Explosives Legislation (COVID-19 Emergency Response) Regulation 2020

Explanatory notes for SL 2020 No. 70

made under the

COVID-19 Emergency Response Act 2020

Explosives Act 1999

Mineral Resources Act 1989

Petroleum Act 1923

Petroleum and Gas (Production and Safety) Act 2004

General Outline

Short title

Explosives Legislation (COVID-19 Emergency Response) Regulation 2020

Authorising law

Sections 8 and 13 of the *COVID-19 Emergency Response Act 2020*

Section 135 of the *Explosives Act 1999*

Sections 138 and 417 of the *Mineral Resources Act 1989*

Sections 74N and 149 of the *Petroleum Act 1923*

Sections 75, 107A and 856 of the *Petroleum and Gas (Production and Safety) Act 2004*

Policy objectives and the reasons for them

The COVID-19 pandemic is affecting the explosives industry, including the fireworks industry, which has collapsed with fireworks contractors and operators having no business and no revenue. In addition, shotfirer occupational explosives licence holders under the *Explosives Regulation 2017*, which are required to provide a training statement of attainment for renewal of their licence may not be able to do so, as registered training organisations have closed due to the pandemic.

Maintaining a strong resources sector is important to the Queensland economy, and maintaining a healthy and economically viable exploration sector is critical to ensuring a pipeline of resource projects into the future.

The COVID-19 pandemic is also creating challenges for mining and petroleum exploration companies in Queensland, with many relying on capital raising (privately or on the ASX) to meet their ongoing capital and operational expenditures. With a downturn in economic conditions as a result of the COVID-19 pandemic, many companies are having difficulty raising adequate capital to fund work program commitments and meet ongoing operational costs.

The policy objectives of the *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020* are to:

1. provide short-term relief for fireworks contractor and fireworks operator licence holders affected by the COVID-19 pandemic by deferring licence renewal costs;
2. provide more flexibility for the renewal of shotfirer occupational explosives licences where the ability to obtain a statement of attainment from a registered training organisation, which is currently needed to renew a licence, is being prevented by the impacts of the COVID-19 Emergency;
3. provide short-term economic relief to the resource exploration industry to help support the industry and minimise the economic impacts of the COVID-19 pandemic by waiving rent; and
4. provide flexibility to exploration tenure holders to assist with meeting their regulatory obligations whilst complying with the current public health directions issued by the Queensland Government in response to the COVID-19 pandemic.

The *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020* will also correct a minor drafting error in the existing *Petroleum and Gas (General Provisions) Regulation 2017*.

Achievement of policy objectives

The policy objectives will be achieved by:

- deferring the expiry date and extending the maximum period for a fireworks contractor licence and fireworks operator licence, past the three year maximum period, until 31 December 2020, to defer licence renewal costs during the pandemic;
- providing the ability for the Chief Inspector, Explosives within Department of Natural Resources, Mines and Energy (the department) to consider alternative documentary evidence in support of the necessary training competencies, for a shotfirer's occupational licence, needed to obtain a licence renewal;
- providing a rent waiver for exploration permit (coal and minerals) and authorities to prospect (petroleum and gas) whose rent is payable in the six-month period within 1 April 2020 to 30 September 2020; and

- waiving the fee payable by authority to prospect holders who apply for a special amendment in the six-month period within 1 April 2020 to 30 September 2020;

Consistency with policy objectives of authorising law

The *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020* is consistent with the policy objectives of the authorising laws as it supports the viability and economic recovery of the exploration sector and sectors of the explosives industry during the COVID-19 pandemic.

Inconsistency with policy objectives of other legislation

The *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020* is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The policy objectives cannot be met except by regulatory amendment.

Benefits and costs of implementation

The proposals relating to the explosives industry are not expected to have any significant impact on foregone revenue over the 2019–20 and 2020–21 financial years as licence renewal costs are being deferred.

The proposals relating to the exploration sector are estimated to result in foregone revenue to the State of up to \$6.3 million over the 2019–20 and 2020–21 financial years. This cost will provide a clear benefit to exploration companies which hold an authority to prospect or exploration permit whose holding costs will be reduced by the rent and fee waiver.

Consistency with fundamental legislative principles

The *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020* is consistent with fundamental legislative principles.

Although the rent and fee relief delivered by the amendments have retrospective effect, this is not a breach of fundamental legislative principles. The *Legislative Standards Act 1992* provides that legislation must have sufficient regard to the rights and liberties of individuals by not adversely affecting rights or liberties or imposing obligations retrospectively. Although retrospective, the effect of these provisions is clearly beneficial, and does not impose new obligations.

Consultation

Consultation has occurred with the Australasian Explosives Industry Safety Group and a broad section of fireworks industry operators, who have requested government support for the fireworks sector, including though the waiving or deferral of licence fees.

Initial consultation about the impact of COVID-19 has occurred with the relevant industry peak bodies (the Queensland Resources Council, Australian Petroleum Production and Exploration Association and the Association of Mining and Exploration Companies). These peak bodies have requested government support for the exploration sector, including the waiving or deferral of fees.

In accordance with the *Queensland Government Guide to Better Regulation* (the guidelines), the Queensland Productivity Commission (QPC) was not consulted in relation to the regulatory proposal for accepting alternative documentary evidence for shotfirer occupational licence renewals. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (g) – Regulatory proposals that are of a machinery nature).

In accordance with the guidelines, the QPC was consulted regarding whether further regulatory impact analysis was required regarding the remaining proposals. The QPC advised that the proposals are excluded from further regulatory impact analysis under category (k) of the guidelines — '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'.