

Mining Legislation (Continuing Professional Development) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 69

made under the

Coal Mining Safety and Health Act 1999

Mining and Quarrying Safety and Health Act 1999

General Outline

Short title

Mining Legislation (Continuing Professional Development) Amendment Regulation 2022

Authorising law

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

Section 262 of the *Mining and Quarrying Safety and Health Act 1999* (the MQSH Act)

Policy objectives and the reasons for them

The CMSH Act establishes a legislative framework with the objectives of: (a) protecting the safety and health of persons at coal mines, and persons who may be affected by coal mining operations; (b) requiring that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and (c) providing a way of monitoring the effectiveness and administration of provisions relating to safety and health under the CMSH Act.

The *Coal Mining Safety and Health Regulation 2017* (the CMSH Regulation) supports the operation of the CMSH Act by including requirements for training of workers, and matters related to persons holding certificates of competency or site senior executive notices.

The MQSH Act establishes a legislative framework aimed at protecting the safety and health of persons at mines, and persons who may be affected by mining operations; and requiring that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level.

The *Mining and Quarrying Safety and Health Regulation 2017* (the MQSH Regulation) supports the operation of the MQSH Act including through requirements for training of

workers, and matters related to competency, or persons holding site senior executive notices.

The CMSH Act and MQSH Act require that workers in safety critical roles at mines hold a certificate of competency, or site senior executive notice granted by the Board of Examiners, and place particular additional safety and health obligations on these persons. For example, the safety and health obligations of site senior executives include ensuring the risk to persons from mining operations is at an acceptable level, and developing and implementing a safety and health management system for all persons at a mine. An underground mine manager is responsible for controlling and managing an underground mine. A ventilation officer is responsible for the implementation of a mine's ventilation system.

The competency of these workers in safety critical roles is crucial to the safety and health of other workers at mines, and lack of competence poses a serious risk to the safety and health of workers.

On 9 November 2018, the regulation making powers in the CMSH Act and the MQSH Act were amended through the *Mines Legislation (Resources Safety) Amendment Act 2018* to confirm that the Board of Examiners can implement requirements for continuing professional development (CPD).

The objective of the *Mining Legislation (Continuing Professional Development) Amendment Regulation 2022* (the Amendment Regulation) is to commence the Practising Certificate Scheme which is based on persons who hold a certificate of competency or a site senior executive notice completing CPD, to support their knowledge and competence over time.

The Practising Certificate Scheme aims to improve training and competency requirements through CPD, and potentially improve protection for mine workers. Given the safety critical nature of roles requiring certificates of competency, or site senior executive notices, maintaining currency of skills and knowledge is important, in areas including mining methods, emergency management and leadership, risk management, and legislation changes.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by commencing the Practising Certificate Scheme to provide a greater level of assurance that a certificate of competency, or site senior executive notice holder maintains relevant contemporary knowledge and skills, as part of ongoing competency for their safety critical roles at mines.

The Practising Certificate Scheme is similar to the equivalent scheme run by the New South Wales Mining Competence Board which started in 2016 and which had a four-year transitional period.

The Amendment Regulation enables the Board of Examiners to establish the details of the Practising Certificate Scheme including details about CPD activities, CPD hours,

and CPD periods. The focused areas of competence that individuals will be required to complete specified hours of learning in are: mining methods; legislation, emergency management and leadership; and health and safety/risk management. In accordance with the Practising Certificate Scheme, certificate of competency holders and site senior executive notice holders will be able to apply for a practising certificate, and start registering completed CPD activities with the Board of Examiners.

The Board of Examiners will publish on the Resources Safety and Health Queensland website the Practising Certificate Scheme covering CPD requirements and details under the Practising Certificate Scheme.

The Board of Examiners will also keep information about the completion of CPD by persons holding a certificate of competency or site senior executive notice, and whether a Practising Certificate has been issued, and remains current, in the Board of Examiners' register.

The amendments commence on notification. There will be a three-year transitional period for those with certificates of competency, or site senior executive notices to start regularly completing requirements for CPD activities, and regularly providing the Board of Examiners with notice of completed CPD activities.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the CMSH Act and the MQSH Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of the mining safety and health legislation of New South Wales.

Benefits and costs of implementation

The Amendment Regulation will not impose any significant costs on participants completing CPD, compared to the potentially significant benefits to workers, their families and communities, from further safeguarding the safety and health of workers. Many persons with certificates of competency, or site senior executive notices already voluntarily complete CPD.

Requiring CPD helps to ensure those with the greatest responsibility for safety and health for mine workers, maintain their knowledge base and competency over time, and meets general community expectations to minimise the risk to safety and health of workers.

There will also be flow on benefits for mining production, through production being less likely to be stopped after safety incidents due to lack of training or adequate supervision factors.

Consistency with fundamental legislative principles

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

Consultation

The Board of Examiners conducted ongoing consultation with industry stakeholders during 2020 and 2021. This included direct consultation with all underground mine managers and site senior executives, the Queensland Resources Council, Institute of Quarrying Australia, and open forums with coal mine workers.

The Board of Examiners also consulted through the Coal Mining Safety and Health Advisory Committee, Mining Safety and Health Advisory Committee, site senior executive forums, and mining industry conferences.

Industry stakeholders did not raise any concerns about the amendments. Stakeholders support requirements for certificate of competency, or site senior executive notice holders to maintain practising certificates, through the regular completion of CPD.

The Office of Best Practice Regulation (OBPR) was consulted regarding whether regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation* (guideline).

OBPR noted that the amendments largely formalise and recognise CPD training that is already being voluntarily completed by certificate of competency, or site senior executive notice holders, and will enable the Board of Examiners to commence the Practising Certificate Scheme.

OBPR concluded that the amendments are unlikely to materially add to the burden of regulation or result in significant adverse impacts. No further regulatory impact analysis was required on this phase of the Practising Certificate Scheme, under the guideline.