

Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2020 Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy provide this human rights certificate with respect to the Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2020 made under the *Land, Explosives and Other Legislation Amendment Act 2019*.

In my opinion, the Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2020 as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2020 (Postponement Regulation), made under the *Land, Explosives and Other Legislation Amendment Act 2019* (the Act), allows for the postponement of the commencement of certain sections of the Act. The Postponement Regulation is needed to ensure the amendments relating to gas device approval authorities do not automatically commence in advance of stakeholder consultation.

The Act received assent on 29 March 2019 and part 12 amended the *Petroleum and Gas (Production and Safety) Act 2004* for commencement by proclamation.

The *Acts Interpretation Act 1954* provides that an Act commences on the date of assent except so far as the Act otherwise expressly provides. The Act specified amendments at part 12, division 3 as commencing on proclamation. This is known as ‘postponed law’. The *Acts Interpretation Act 1954* also provides that if a ‘postponed law’ has not commenced within 1 year of the assent day, it automatically commences on the next day. A postponement regulation may extend the period before commencement. The sections to be postponed are:

Section	Purpose
275	To provide that a gas device approval authority is an authority under the Act.
284	Requires the chief inspector to keep a register of gas device approval authorities similar to existing requirements for gas work licences and gas work authorisations.
285	Amends section 731 to revise the section reference to registers. The section also applies the provision exempting registers from disclosing the residential address of holders of a gas device approval authority.
286	Inserts new Part 6A Approval of gas devices in Chapter 9 to replace section 733.
287	Omits section 733. Equivalent provisions to sections 733(1) and 733(2) are inserted by new section 731AA in part 6A of chapter 9.

Section	Purpose
289	Inserts new section 734AA to ensure the safe use of a gas device by requiring a person to take reasonable steps to ensure its safe operation.
290	Amends section 789(2)(b) to add a gas device approval authority as an authority for which action can be taken if there is non-compliance with requirements associated with the authority.
291	Amends section 790 to provide that a gas device approval authority may be suspended or cancelled for non-compliance.
292	Amends section 814(5) to revise the section referencing the offence for unapproved supply, installation and use of gas devices.
293	Amends section 814A to revise the section referencing the offence for supplying a gas device without the required notification and to insert a reference for the offence for breaching conditions of a gas device approval authority.
294 (new sections 998 and 999)	New section 998 provides transitional arrangements for gas device and gas fitting approvals and approving authorities under former section 733(1)(a)(ii). New section 999 provides a person who is currently an approving authority under section 733(1)(a)(ii) may continue operating under that approval for 12 months after new arrangements commence.
295	Schedule 1 (Reviews and appeals) is amended. Decisions to refuse an application (section 731AD) and to impose conditions (section 731AD), other than a condition agreed to or requested by the applicant, are subject to internal review under section 817. Section 823 provides for external review of these decisions by the Queensland Civil and Administrative Tribunal (QCAT).
296 (3)	Schedule 2 (Dictionary) is amended. A reference to section 18 is added and the definition of holder is to include the holder of a gas device approval authority.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The purpose of the Postponement Regulation is to delay commencement and implementation of the Act provisions specified above. I consider that this does not limit human rights under the *Human Rights Act 2019*.

Conclusion

I consider that the Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2020 is compatible with the *Human Rights Act 2019* because postponing commencement of the specified provisions does not limit human rights.

DR ANTHONY LYNHAM MP
MINISTER FOR NATURAL RESOURCES, MINES AND ENERGY

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