

Explosives Legislation (COVID-19 Emergency Response) 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 Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 made under the following legislation:

- *COVID-19 Emergency Response Act 2020*;
- *Explosives Act 1999*;
- *Mineral Resources Act 1989*;
- *Petroleum Act 1923*; and
- *Petroleum and Gas (Production and Safety) Act 2004*.

In my opinion, the Explosives Legislation (COVID-19 Emergency Response) 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 Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 modifies the effect of the Explosives Regulation 2017. The Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 also amends the Mineral Resources Regulation 2013 and the Petroleum and Gas (General Provisions) Regulation 2017.

The Explosives Regulation 2017 modifications extend the time period for a fireworks contractor or fireworks operator licence, from a maximum of three years, to until 31 December 2020, if the three year expiry for a licence holder falls before then. This will save licence holders the cost of renewing licences, until after 31 December 2020. This extends the licencing status quo, and postpones licencing renewal costs for the fireworks industry, as the industry currently has no business due to COVID-19 emergency restrictions.

The Explosives Regulation 2017 modifications also provide alternative ways to satisfy training attainment requirements, other than a registered training organisation (RTO) training statement of attainment, for the renewal of shotfirer licences. These modifications are proposed due to the COVID-19 emergency causing the closure of RTOs.

The amendments of the Mineral Resources Regulation 2013 and the Petroleum and Gas (General Provisions) Regulation 2017 provide financial assistance to resource exploration companies by waiving the annual rent collected by government and by waiving the application fee that is required to be paid by the holder of an authority to prospect who applies to make a special amendment to their work program.

Human Rights Issues

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

The extension of certain licences for a fireworks contractor or fireworks operator licence under the Explosives Regulation 2017, to 31 December 2020, and the postponement of licensing fees until after 31 December 2020, alleviates the financial burden on the fireworks industry.

The human right relevant for this modification is:

- Right to property (section 24)

The relevant clause of the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 is clause 3. This clause extends the term of certain licences to 31 December 2020, which would otherwise expire. This will allow the licence holder to continue to work under the licence and gain an income. Property rights are therefore protected, and there is no need to undertake further assessment under section 13 of the *Human Rights Act 2019*.

The human right relevant to the modifications concerning alternative evidence to support competency requirements for shotfirers under the Explosives Regulation 2017 is:

- Right to life (section 16)

The relevant clauses of the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 are clauses 4 and 5. These clauses provide alternative ways to satisfy training attainment requirements, other than a RTO training statement of attainment, for the renewal of shotfirer licences.

Requiring alternative documentary evidence about training attainment competencies, when RTO training statements are not possible, continues to protect the life, safety and health of others, who may be affected by the activities of shotfirers. The right to life continues to be protected, and there is no need to undertake further assessment under section 13 of the *Human Rights Act 2019*.

None of the proposed amendments to the Mineral Resources Regulation 2013 and the Petroleum and Gas (General Provisions) Regulation 2017 raise any human rights issues. These amendments contained in the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 waive rent and a specific fee, which will be of benefit to exploration tenure holders.

Conclusion

I consider that the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020 is compatible with the *Human Rights Act 2019* because it does not limit a human right in accordance with section 13 of the Act.

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