

Coal Mining Safety and Health (Explosion Barriers) Amendment 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 Coal Mining Safety and Health (Explosion Barriers) Amendment Regulation 2020 (Amendment Regulation) made under the *Coal Mining Safety and Health Act 1999*.

In my opinion, the Amendment Regulation, 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 *Coal Mining Safety and Health Act 1999* (the Act) establishes the overall legislative framework for the safety and health of persons at coal mines with the following primary aims to:

- protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations;
- require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and
- provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under the Act.

The Coal Mining Safety and Health Regulation 2017 (the Regulation) supports these aims, and includes requirements for the control of the risk of coal dust explosions. An underground coal mine's safety and health management system must provide for minimising the risk of a coal dust explosion, suppressing coal dust explosion and limiting its propagation to other parts of the mine.

The Amendment Regulation requires that explosion barriers be installed and maintained in underground coal mines, as additional risk controls, to suppress any coal dust explosion, and limit its propagation to other parts of the mine. Explosion barriers will provide a second line of defence, should the primary risk control, of stonedusting roadways, fail to prevent the propagation of a coal dust explosion.

The Regulation already requires that roadways are sufficiently stonedusted. This requires that the content of incombustible material in the roadway dust is kept at or above prescribed safe concentration levels, or treated with an alternative coal dust explosion inhibitor.

The amendments requiring explosion barriers, as additional risk controls, were recommended in the Decision Regulatory Impact Statement for the Queensland Mine Safety Framework, which was tabled in the Queensland Parliament on 22 March 2018.

Recent audits by the Queensland Coal Mines Inspectorate of stonedusting concentration compliance, and of float dust levels in underground coal mines, have reinforced the need to require the installation and maintenance of explosion barriers, in all underground coal mines.

The Amendment Regulation requires that the underground mine manager ensures explosion barriers are installed and maintained in the part of each of the following roadways within an explosion risk zone one (ERZ1) in a part of the mine where coal is being extracted – (i) a return roadway, (ii) a roadway with a single point of entry, (iii) a roadway in which a coal conveyor is installed. Explosion barriers are also required in any other place, as identified by a risk assessment.

The meaning of “explosion barrier” is a barrier constructed, installed and maintained in compliance with a recognised standard for barriers known as explosion barriers, or another barrier that achieves a level of risk that is equal to or greater than the acceptable level of risk achieved by a barrier mentioned in the recognised standard.

This enables industry to alternatively use any new technology or other types of explosion barrier that achieve a level of risk equal to or greater than the acceptable level of risk achieved by a barrier that is in compliance with the recognised standard.

Human Rights Issues

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

In my opinion, the human rights relevant to the Amendment Regulation are:

- right to life (section 16 of the *Human Rights Act 2019*); and
- right to liberty and security of person (section 29 of the *Human Rights Act 2019*).

The main purpose of the Amendment Regulation is to require that explosion barriers are installed and maintained in underground coal mines. This supports the aims of the Act to protect the safety and health of persons at coal mines through requiring risk of injury to be at an acceptable level.

In my opinion, the Amendment Regulation promotes the right to life and the right to security of the person protected by the *Human Rights Act 2019*, and does not limit any rights.

The right to life protects the lives of all persons and includes the right not to be arbitrarily deprived of life. It imposes positive obligations on the State to take appropriate steps and adopt positive measures to protect the health and safety of its citizens. The right to security of the person similarly places a positive obligation on the State to take appropriate steps to ensure the physical safety of those who are in danger of physical harm.

The Amendment Regulation requires additional risk controls to protect the right to life, and the safety and health of those at underground coal mines, or those who may be affected by coal mining operations. It also protects the right to security. Explosion barriers improve protection for underground coal mine workers.

Conclusion

I consider that the Coal Mining Safety and Health (Explosion Barriers) Amendment Regulation 2020 is compatible with the *Human Rights Act 2019* because it raises human rights but does not limit human rights.

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

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