

# Coal Mining Safety and Health (Explosion Barriers) Amendment Regulation 2021

## 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, Scott Stewart MP, Minister for Resources provide this human rights certificate with respect to the *Coal Mining Safety and Health (Explosion Barriers) Amendment Regulation 2021* (the Amendment Regulation 2021) made under the *Coal Mining Safety and Health Act 1999*.

In my opinion, the Amendment Regulation 2021, 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 CMSH 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 CMSH Act.

The *Coal Mining Safety and Health Regulation 2017* (CMSHR) 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 2021 provides for the installation and maintenance of active explosion barriers in underground coal mines, as alternative risk controls to passive explosion barriers, or in combination with passive explosion barriers, to suppress any coal dust explosion, and to limit its propagation to other parts of the mine.

Explosion barriers 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 CMSHR already requires underground mine managers to ensure that explosion barriers are installed and maintained, by 1 January 2022, to further reduce the risk of any coal dust explosion propagating through an underground coal mine. The CMSHR provides guidance about the locations in an underground coal mine where passive explosion barriers must be

installed and maintained, but does not specifically cover active explosion barriers, as active explosion barriers were previously not considered sufficiently tested, and available.

The Amendment Regulation 2021 provides that as an alternative to passive explosion barriers, explosion barriers that are active barriers, devices, or systems may be installed and maintained on plant within an ERZ1 in a part of the mine where coal is being extracted, in a way that would prevent the propagation of a coal dust explosion to all of the following places: a return roadway, a single entry drive, and a roadway in which a coal conveyor is installed.

The underground mine manager must also ensure that explosion barriers, whether active or passive explosion barriers, are installed and maintained in any other place identified by a risk assessment for the mine, other than a place at which an explosion barrier is already installed and maintained in compliance with section 303A(1) of the CSMHR.

The definition of “explosion barrier” is amended to refer not only to a barrier, but to a barrier, device, or system, to recognise the possible characteristics of active explosion barriers, as a device, or system.

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.

## **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 2021 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 purpose of the Amendment Regulation 2021 is to provide for the installation and maintenance of active explosion barriers in underground coal mines, as alternative risk controls to passive explosion barriers, or in combination with passive explosion barriers, to suppress any coal dust explosion, and to limit its propagation to other parts of the mine. This supports the aims of the CSMH 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 2021 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 2021 provides for alternative 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, whether

passive or active barriers, devices or systems improve protection for underground coal mine workers.

## **Conclusion**

I consider that the *Coal Mining Safety and Health (Explosion Barriers) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**SCOTT STEWART MP**  
MINISTER FOR RESOURCES

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