

# ***Petroleum and Gas (Safety) (Gas Devices) 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, Minister for Resources provide this human rights certificate with respect to the *Petroleum and Gas (Safety) (Gas Devices) Amendment Regulation 2021* (the Amendment Regulation) made under the *Petroleum and Gas (Production and Safety) Act 2004*.

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 main purpose of the *Petroleum and Gas (Production and Safety) Act 2004* (PG Act) is to facilitate and regulate the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum and fuel gas industry.

The *Petroleum and Gas (Safety) Regulation 2018* (PG Regulation) supports these aims and regulates both Type A and Type B devices.

The Amendment Regulation revises the regulation of biogas flares. Currently biogas flares are not prescribed under regulation and they are not considered a Type B device. Therefore, the gas flares are not subjected to safety considerations set out under the Australian Standards. In Queensland, only a fuel gas pilot system of a gas flare is defined as a Type B device but not the flare itself. To ensure that the flares meet the required standards, it is necessary to prescribe gas flares located at biogas facilities as gas devices (Type B) under the PG Regulation. It is not intended that there is any retrospective application of these requirements to existing biogas flares and this amendment will only apply to new and modified flares.

The Amendment Regulation also revises the regulation of small gas engine driven appliances in line with the recent publication of the Australian Standards/NZS 5263.1.11:2020 Gas appliances, Part 1.11: Small gas engine driven appliances. In Queensland these devices have typically been regulated as Type B devices. However, the amendments are required to ensure that small gas engine driven appliances approved by a gas device approval authority holder (type A) are regulated as Type A devices in Queensland which aligns with the Australian Standards and other Australian jurisdictions. This will provide a clear framework for operators and stakeholders in how small gas engine driven appliances are regulated that is consistent with other jurisdictions. Safety requirements of these devices will be achieved through the gas device approval authority (Type A) process of Queensland's petroleum and gas safety legislation which recognises the national certification process and ensures that the devices comply with Australian Standards. The amendments will also ensure that there are no additional obligations for those operators at operating plant that produce, compress, and refine

petroleum or fuel gas and who have safety management systems for competent employees to work on these devices.

A definition of small gas engine driven appliances will also be included under Schedule 7 Dictionary of the PG Regulation. The definition is aligned with the scope of AS/NZS 5263.1.11 as it relates to small gas engine driven appliances.

## 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*).

In my opinion, the Amendment Regulation promotes the right to life 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 purpose of the Amendment Regulation is to ensure that biogas flares meet required standards, that will improve the safety of the flares and protect the safety and health of those people affected by biogas flares including workers and communities. This supports the aims of the PG Act to regulate and promote the safety of persons in relation to operating plant.

The Amendment Regulation as it relates to stationary gas engines is considered to be technical and administrative in nature and no human rights have been identified as being engaged or limited. The amendments ensure that there are no additional obligations for those operators at operating plant that meet certain conditions and will have alternative risk controls in place to protect the right to life. The risk controls will include limiting the gas work undertaken only at an operating plant with a safety management system, only by a person assessed under that system as competent to carry out the gas work and only to the small gas engine driven appliance. In my opinion, the Amendment Regulation promotes the right to life protected by the *Human Rights Act 2019* and does not limit any other rights.

## Conclusion

I consider that the *Petroleum and Gas (Safety) (Gas Devices) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**SCOTT STEWART MP**  
MINISTER FOR RESOURCES