

Mining and Quarrying Safety and Health Amendment Regulation 2023

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 *Mining and Quarrying Safety and Health Amendment Regulation 2023* made under the *Mining and Quarrying Safety and Health Act 1999*.

In my opinion, the *Mining and Quarrying Safety and Health Amendment Regulation 2023* (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 *Mining and Quarrying Safety and Health Act 1999* (MQSH Act) establishes the overall legislative framework for the safety and health of persons at mines and quarries with the following primary aims to:

- protect the safety and health of persons at mines and quarries and persons who may be affected by operations; and
- require that the risk of injury or illness to any person resulting from operations is at an acceptable level.

Section 262 of the MQSH Act authorises the making of regulations. Establishing a specific legislative framework for the mining and quarrying industry through the MQSH Act acknowledges that there are specific issues that need to be considered in regulating safety and health for the industry.

The *Mining and Quarrying Safety and Health Regulation 2017* (MQSH Regulation) supports these aims and includes requirements for managing risks from exposure to health hazards including exposure limits, health assessments, and health surveillance to monitor workers' exposure.

The purpose of the Amendment Regulation is to ensure exposure limits for certain contaminants under the MQSH Regulation are not linked to the *Workplace exposure standards for airborne contaminants* (the Airborne Contaminants Standards) which is published by Safe Work Australia. The exposure limit in the Airborne Contaminants Standards imposes a limit of 5mg/m³ for welding fumes and 0.05mg/m³ for respirable crystalline silica. These levels will remain unchanged by the Amendment Regulation.

The Amendment Regulation will amend Schedule 5 of the MQSH Regulation to insert specific exposure limits of 5mg/m³ for welding fumes and 0.05mg/m³ for respirable crystalline silica. The Amendment Regulation also excludes diesel particulate matter from the application, under the MQSH Regulation, of the Airborne Contaminants Standards.

While there is currently no regulated limit for diesel particulate matter in mineral mines and quarries there is specific guidance on best practice limits through *QGN 21 Guidance note for management of diesel engine exhaust in metalliferous mines* published by RSHQ. QGN 21 advises an exposure limit of 0.1mg/m³ as recommended for diesel particulate matter by the Australian Institute of Occupational Hygienists. QGN will remain in force while industry is consulted on a regulated exposure limit for diesel particulate matter.

The amendment to Schedule 5 will implement a consistent approach with that which is taken under the *Coal Mining Safety and Health Regulation 2017* wherein these three products may be regulated for the coal mining industry separately to the Airborne Contaminants Standards. This will ensure that the mining and quarrying industry will be consulted before changes can be made to these limits, rather than automatically applying any change to the standards. This will allow Safe Work Australia to implement changes to exposure limits for these three products and not be delayed while the mining industry participates in the consultation required to determine how best to address the mining industry specific issues. This consultation will afford the mining and quarrying industry the same opportunity that applies to the coal mining industry to consider how best to transition to lower exposure levels that will be applied to these products.

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*);
- property rights (section 24 of the *Human Rights Act 2019*); and
- right to liberty and security of person (section 29 of the *Human Rights Act 2019*).

In my opinion, the Amendment Regulation engages the right to life, property rights and the right to security of the person protected by the *Human Rights Act 2019*, however it does not limit any of these 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 to the right to life, places a positive obligation on the State to take appropriate steps to ensure the physical health and safety of those who are in danger of physical harm. Providing for industry stakeholders to be consulted on protective measures in the form of specific exposure levels is consistent with these rights.

Property rights protect real and personal property and can include contractual rights, statutory rights, employment and other economic interests. Deprivation is considered to be acts or decisions that, amongst other acts and decisions, limit or terminate property rights. Providing

for industry stakeholders to be consulted on the best way to transition to new and reduced exposure levels is consistent with this right.

The purpose of the Amendment Regulation is to allow specific consultation with the Queensland mining and quarrying industry on exposure limits for welding fumes, respirable crystalline silica and diesel particulate matter, consistent with the opportunity already afforded to the Queensland coal mining industry.

The Amendment Regulation ensures that affected operations and workers' employment at mines and quarries will be able to continue while the mining and quarrying industry is engaged on setting lower exposure limits that provide the best balance of human rights, however the amendment itself does not affect these existing rights.

Conclusion

I consider that the *Mining and Quarrying Safety and Health Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it promotes human rights and does not limit human rights.

SCOTT STEWART MP
MINISTER FOR RESOURCES

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