

Email: [REDACTED]

Mobile: [REDACTED]

To: Committee Secretary  
State Development, Natural Resources and Agricultural  
Industry Development Committee  
Parliament House  
George Street  
Brisbane Qld 4000

From: Darth Clemerson  
DSC Reliability And  
Maintenance

[REDACTED]  
[REDACTED]

**Submission to the Mineral and Energy Resources and Other Legislation Amendment Bill 2020**

Please accept my submission to the parliamentary commission as an individual who has made a career out of coal mining, in Queensland, over the last 20 years. I do not agree with the requirements for statutory office holders in the proposed Bill and would like the opportunity to express some concerns.

For the purpose of my submission, the following extract of the clarification of appointment requirements for statutory office is what I will be basing my points on and has been taken from the Mineral and Energy Resources and Other Legislation Amendment Bill 2020, Explanatory Notes, page 2-

*“Clarification of appointment requirements for statutory office holders The policy objective is to ensure that statutory office holders under the Coal Mining Safety and Health Act 1999 can make safety complaints, raise safety issues, or give help to an official in relation to a safety issue without fear of reprisal or impact on their employment. The Coal Mining Safety and Health Act 1999 provides for the appointment of statutory office holders for coal mining operations. These positions are safety critical roles and are important in managing risks to the safety and health of coal mine workers to whom they owe a responsibility. Currently, the Coal Mining Safety and Health Act 1999 does not prescribe particular persons who may be appointed, for example this may include a contractor or service provider, or an employee of a contractor of service provider. The Bill amends the Coal Mining Safety and Health Act 1999 to clarify that only persons who are employees of a coal mine operator may be appointed as certain statutory office holders. “*

I turn to the policies objective where the statement is made; *“The policy objective is to ensure that statutory office holders under the Coal Mining Safety and Health Act 1999 can make safety complaints, raise safety issues, or give help to an official in relation to a safety issue without fear of reprisal or impact on their employment.”*

Although the objective seems to be in the good will of the coal mine worker, the fact of the matter is whether she or he is employed directly to the coal mine operator or a contractor, both are protected from adverse action, coercion and misrepresentation by the Fair Work Act, employment agreements and additionally, each individual has the right to be a member of an industrial association as a means of representation.

The assumption that removing the ability for an individual contractor to hold a statutory position in a coal mine will relieve the anxiety of the coal mine worker to, *“make safety complaints, raise safety issues, or give help to an official in relation to a safety issue without fear of reprisal or impact on their*

Email: [REDACTED]

Mobile: [REDACTED]

*employment.*”, seems to be based off an emotional response and subjective data. There is no evidence that suggests a coal mine worker, directly working for the coal mine operator, will not be subject to reprisal or impact on their employment, additionally a coal mine worker, directly employed to the coal mine operator, faces the ability to be persecuted by members of an industrial association for speaking up of unsafe practises, behaviours and incidents demonstrated by other members of the industrial association. The “do not dob on your mate” culture is still very prevalent in the coal mining industry, driven by individual members of industrial associations and social ideologies amongst coal mine workers, and should be considered another reason as to why coal mine workers, in general, are fearful of speaking up. I speak of this from experience.

It would be intellectually dishonest to suggest contract statutory holders of a coal mine are afraid to speak when the industries attitude and culture toward health and safety has had a significant change for the good. Critically thinking, if we go over mine record data over a 10 year period, would we find a decrease in incident reporting to the department of mines and natural resources? Would we find a decrease in a mines internal incident reporting? Does a mine that holds a majority of contract statutory holders demonstrate more unsafe practises or behaviours than a mine that is majority run by permanent statutory holders? I hypothesise that results would show a significant increase of reporting and an increase in communication between a coal mine and the department of natural resources and mines, irrespective of being contract statutory dominant or not. Have these questions been raised and investigated to drive a policy change?

Does the proposal consider section 45 of the *Competition and Consumer Act*? Which prohibits contracts, arrangements, understandings or concerted practices that have the purpose, effect or likely effect of substantially lessening competition in a market, even if that conduct does not meet the stricter definitions of other anti-competitive conduct such as cartels. Surely this proposed bill will substantially lessen competition within the industry?

The bill fails to consider the significant impact on thousands of individuals holding statutory obligations as contractors in a coal mine. Many individuals choose the path of a contractor for the flexibility, financial benefit and freedom to negotiate their own contracts with the operator, free from the interference and restriction of an industrial association’s collective agreement. Every individual should have the right to choose who they work for and under what agreement they will work under, provided it is agreed upon by themselves and the company with the understanding by both parties that the individual holds obligations under the relevant coal mining legislation.

Applying restrictions to an individual’s choice of employer will remove competitiveness within the industry and see a lot of contract statutory office holders turn away from the industry. To lose so much passion, experience and knowledge would be catastrophic to the coal mining sector of this country. Personally, this will also impact my livelihood.

I ask that the appointment requirements for statutory office holder’s policy be removed from the proposed bill and individual contractors be safe guarded from any future proposal that can have a detrimental effect on their ability to operate.

Yours sincerely

Darth Clemerson

Email: [REDACTED]

Mobile: [REDACTED]

Referenced material:

Fair Work Ombudsman, protections at work- <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/protections-at-work>

ACCC Anti-Competitive Conduct - <https://www.accc.gov.au/business/anti-competitive-behaviour/anti-competitive-conduct>

Mineral and Energy Resources and Other Legislation Amendment Bill 2020, Explanatory Notes, page 2.