

## AEISG SUBMISSION ON THE MEROLA BILL 2020

### Proposed regulation-making power amendments under the Explosives Act 1999

#### Introduction

The Australasian Explosives Industry Safety Group (AEISG) is an incorporated industry association representing all the significant manufacturers and suppliers of explosives in Australasia. While relatively small in number, AEISG membership includes large national and international explosives suppliers, operating nationally across state/territory jurisdictional borders, providing in excess of three million tonnes of explosives per annum to the resource, construction and other sectors.

Explosives have long been subject to tight legislative controls for community safety and security reasons. These controls are acknowledged, understood and supported by our industry. Under its constitution, AEISG activities are to focus on safety and security and accordingly one of its main roles is to liaise with regulatory agencies impacting the explosives industry and ensure effectiveness, efficiency and consistency in the way those agencies undertake their necessary functions.

Now that the draft Mineral and Energy Resources and Other Legislation Amendment Bill 2020 has emerged, AEISG would like to take the opportunity to make a submission on its contents relative to the explosives industries in Australia.

#### Issues

1. AEISG fully supports introduction of security clearances as outlined in the recent LEOLA Act 2019.
2. AEISG supports the proposed amendments to the regulation-making powers in Section 135(2)(j) of the Explosives Act 1999 to enable regulations to address conditions and other requirements applying to security clearances.
3. AEISG also supports the inclusion of a new provision, proposed Section 135(2)(l), to enable the regulations to address relevant registers of authorities and security clearances and to provide for the disclosure or publication of information relative to the status of such authorities and security clearances.

#### Summary

AEISG welcomes the opportunity to provide this submission on behalf of its members and looks forward to consultation on the ensuing relevant changes to the regulations.



R A (Bob) Sheridan  
Chief Executive Officer  
Australasian Explosives Industry Safety Group

## AEISG SUBMISSION ON THE DRAFT INDUSTRIAL MANSLAUGHTER PROVISIONS FOR RESOURCES SAFETY ACTS

### Introduction

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Explosives have long been subject to tight legislative controls for community safety and security reasons. These controls are acknowledged, understood and supported by our industry.

Under its constitution, AEISG activities are to focus on safety and security and accordingly one of its main roles is to liaise with regulatory agencies impacting the explosives industry and ensure effectiveness, efficiency and consistency in the way those agencies undertake their necessary functions.

Now that the draft Mineral and Energy Resources and Other Legislation Amendment Bill 2020 has emerged, AEISG would like to take the opportunity to make a submission on its contents relative to the explosives industries in Australia.

### Issues

1. The recent Resources Safety and Health Queensland Bill 2019 defined 'Resources Safety Act' as:

#### **Schedule 1                      Dictionary**

#### **Resources Safety Act means –**

- a) the Coal Mining Safety and Health Act 1999; or
- b) the Explosives Act 1999; or
- c) the Mining and quarrying Safety and Health Act 1999; or
- d) the Petroleum and Gas (Production and Safety) Act 2004.'

AEISG has previously expressed concern with the inclusion of the explosives legislation within this definition and hence within the scope of the proposed Resources Safety and Health Queensland (RSHQ) to be established by this Bill.

2. Explosives legislation in Queensland, as in all other states and territories, is NOT an industry workplace safety and health legislation.  
Rather, explosives legislation is focussed on public safety and security as outlined in Section 2A of the Queensland Explosives Act 1999:





## **'2A Purpose of Act**

- 1) *The purpose of this Act is to regulate the handling of, and access to, explosives to protect public health and safety, property and the environment.'*
3. The explosives industries in Queensland, as in all other states and territories, are subject to, and operate under, relevant jurisdictional workplace health and safety (WHS) legislation and are overseen by the associated WHS inspectorates. In the case of Queensland, the explosives industries operate under either:
  - The Work Health and Safety Act 2011 (WHS Act) administered by WorkCover Queensland, for non-mining sites, or
  - The Coal Mining Safety and Health Act 1999, the Mining and Quarrying Safety and Health Act 1999 and the Petroleum and Gas (Production and Safety) Act 2004 for sites covered by those legislations.
4. The associated Information Paper covering this proposed change indicates (AEISG highlights):

*'Introducing IM offence provisions in Resources Safety Acts, in a manner consistent with the provisions in the Work Health and Safety Act 2011 (WHS Act), will ensure that there is **consistent treatment of criminal negligence resulting in the death of a worker on Queensland worksites**. The inclusion of a specific offence for IM into resources safety legislation would bring into focus the importance of the conduct of **senior officers and corporations** =. The proposed offence recognises the extremely serious circumstances in which both a fatality has occurred and there has been a failure by an individual or corporation.*

*It is proposed that the Resources Safety Acts be amended to include an offence for IM:*

- *for an **employer or senior officer**;*
- *where **a worker** dies in the course of **undertaking work** or is injured and later dies;*
- *the conduct of the **employer or senior officer** causes the death; and*
- *the **employer or senior office** is negligent about causing the death.'*

The clear intention is to apply the industrial manslaughter provisions to worksites and associated employers and/or senior officers.

Hence, if the provisions are included in workplace legislation for both resource sites and non-resource sites, the explosives industries would be effectively covered.

5. The explosives industry which AEISG represents is NOT opposing introduction of the industrial manslaughter provisions for resources workplaces, but is indicating that the

provisions should not be included in the Explosives Act 1999, and do not need to be, as:

- it is not workplace health and safety legislation; and
- any relevant offence by the explosives industry is already covered by the WHS Act and/or the relevant resource safety and health Acts depending on the site of the alleged offence.

6. There are numerous pieces of Queensland legislation, similar in purpose to the Explosives Act in that they control products and/or activities to protect the public, which have not been included in the proposals to introduce industrial manslaughter provisions. It would appear that the Explosives Act is being singled out by duplicating the industrial manslaughter provisions even though it is not workplace health and safety legislation and other similar legislations are not also included.

### Summary

AEISG believes there is no justification, and indeed no reason, to include the IM provisions in the Explosives Act 1999 as it is not a workplace health and safety legislation.

AEISG welcomes the opportunity to provide this submission on behalf of its members and believes other explosives industry groups or associations covering fireworks, shooters, explosives safety devices etc. would express similar concerns if provided the opportunity.



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Australasian Explosives Industry Safety Group