



Geothermal Exploration Act 2004

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Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Geothermal Exploration Act 2004

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Geothermal Exploration Act 2004

[as amended by all amendments that commenced on or before 23 February 2009]

An Act to enable and facilitate exploration for geothermal energy, and for other purposes

Chapter 1 Introduction

Part 1 Preliminary

1 Short title

This Act may be cited as the *Geothermal Exploration Act 2004*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purpose of Act

The purpose of this Act is to do the following—

- (a) manage access to the State's geothermal resources for the benefit of all Queenslanders;
- (b) encourage and facilitate the efficient and responsible exploration for the State's geothermal resources;
- (c) provide an effective and efficient regulatory system for geothermal exploration;
- (d) enhance knowledge of the State's geothermal resources;
- (e) ensure geothermal exploration is carried out in a way that minimises land use conflict;

- (f) facilitate constructive consultation with, and appropriate compensation for, persons adversely affected by geothermal exploration;
- (g) encourage an appropriate level of competition in geothermal exploration;
- (h) encourage responsible land care management in the carrying out of geothermal exploration;
- (i) promote the safety of persons involved in geothermal exploration.

Part 2 Application of Act

4 Act binds all persons

- (1) This Act binds all persons, including the State, and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

5 Application of Act to land covered by water

- (1) This Act applies to land covered by water only if the land is—
 - (a) beneath the internal waters of the State; or
 - (b) landward of the territorial sea baseline.
- (2) In this section—

territorial sea baseline has the meaning given under the *Seas and Submerged Lands Act 1973* (Cwlth) by proclamation in Gazette No. S 29 (Cwlth) dated 9 February 1983 at pages 2 to 14 as amended by proclamation in Gazette No. S 57 (Cwlth) dated on 31 March 1987 at page 35.

6 Relationship with Mineral Resources Act 1989

- (1) This Act does not limit or otherwise affect the power under the *Mineral Resources Act 1989* to grant or renew a mining tenement under that Act over land in the area of a geothermal exploration permit.
- (2) However, if the mining tenement is a prospecting permit, mineral development licence or exploration permit, an activity can not be carried out under the tenement if—
 - (a) carrying out the activity adversely affects the carrying out of geothermal exploration under this Act; and
 - (b) the geothermal exploration has already started.¹

7 Relationship with petroleum legislation

- (1) This Act does not limit or otherwise affect the following powers in relation to land in the area of a geothermal exploration permit—
 - (a) the power under the *Petroleum Act 1923* to grant or renew an authority to prospect or petroleum lease under that Act;
 - (b) the power under the *Petroleum and Gas (Production and Safety) Act 2004* (the **P&G Act**) to grant a petroleum authority under that Act.
- (2) However, an activity mentioned in subsection (3) can not be carried out if carrying out the activity adversely affects the carrying out of geothermal exploration under this Act and the geothermal exploration has already started.
- (3) For subsection (2) the activity is an authorised activity—
 - (a) for an authority to prospect under any of the Acts; or
 - (b) for a water monitoring authority under the P&G Act; or
 - (c) for a data acquisition authority under the P&G Act; or

¹ For restrictions relating to the granting of mining claims and mining leases over land in the area of a geothermal exploration permit, see the *Mineral Resources Act 1989*, sections 51 (Land for which mining claim not to be granted) and 248 (Applicant must obtain consent or views of existing authority holders).

- (d) for a pipeline licence under the P&G Act carried out on land that, under that Act, is pipeline land for the licence.

7A Relationship with Greenhouse Gas Storage Act 2009

The relationship between this Act and the *Greenhouse Gas Storage Act 2009* (the **GHG storage Act**) and authorities under them is provided for under—

- (a) chapter 4, part 5; and
- (b) chapter 4, parts 2 to 8 of the GHG storage Act.

8 Act does not affect other rights or remedies

- (1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

Part 3 Interpretation

9 Definitions

The dictionary in the schedule defines particular words used in this Act.

10 Graticulation of earth's surface into *blocks* and *sub-blocks*

- (1) For identifying areas of land for this Act, the surface of the earth is taken to be divided into *blocks* and *sub-blocks*.
- (2) The blocks are the parcels of land contained within each—
 - (a) 2 meridians of longitude 5 minutes apart; and
 - (b) 2 parallels of latitude 5 minutes apart.
- (3) Each block is divided into 25 sub-blocks each being bounded by 2 meridians of longitude 1 minute apart and 2 parallels of latitude 1 minute apart.
- (4) Each block and sub-block must be identified in the way approved by the chief executive.

Chapter 2 State ownership of geothermal energy

11 State ownership of geothermal energy

- (1) All geothermal energy on or below the surface of any land in the State is, and is taken always to have been, the property of the State.
- (2) To remove any doubt, it is declared that—
 - (a) a person does not acquire any property in geothermal energy merely because the person discovers it or discovers geothermal material from which geothermal energy may be extracted; and
 - (b) subsection (1) applies whether or not the land is freehold or other land.
- (3) This section applies despite any other Act, grant, title or other document.

12 Geothermal energy reservation in land grants

- (1) This section applies to each grant under another Act of a right relating to land.
- (2) This section applies whether the grant was made before or after the commencement of this section.
- (3) The grant is taken to contain a reservation to the State of—
 - (a) all geothermal energy on or below the surface of the land; and
 - (b) the exclusive right to do the following in relation to the land—
 - (i) to enter and carry out any geothermal energy activity;
 - (ii) authorise, under this Act, persons to carry out any geothermal energy activity;
 - (iii) regulate, under this Act, geothermal energy activities.
- (4) In this section—

geothermal energy activity means geothermal exploration or any activity related to the extraction or production of geothermal energy.

grant, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.

12A Provision for entry by State to carry out geothermal energy activity

- (1) If the State proposes to exercise a right under section 12(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.
- (2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.
- (3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or an authorised officer under the *Petroleum and Gas (Production and Safety) Act 2004* performing functions under that Act relating to this Act.

13 Prohibition on geothermal exploration without permit

A person must not carry out geothermal exploration unless—

- (a) a geothermal exploration permit for the exploration is in force; and
- (b) the person may, under section 35, carry out the exploration; and
- (c) the person—
 - (i) is carrying out the geothermal exploration for the State; and
 - (ii) has, under section 12A, been authorised for that purpose; and
 - (iii) is acting within the scope of that authority.

Maximum penalty—1500 penalty units.

15 Geothermal exploration permit does not create an interest in land

The granting of a geothermal exploration permit does not create an interest in any land.

Chapter 3 Tender process

Part 1 Preliminary

16 Operation of ch 3

- (1) This chapter provides for a process for the granting of geothermal exploration permits by competitive tender.
- (2) A geothermal exploration permit can only be granted under this chapter.

Part 2 Calls for tenders

Division 1 Calling for tenders

17 Power to call for tenders

- (1) The Minister may invite tenders for a geothermal exploration permit for an area of land (a *call for tenders*).
- (2) The land the subject of a call for tenders is the *tender release area*.
- (3) A call for tenders must be gazetted and state each of the following—
 - (a) the tender release area;
 - (b) the closing time for the call;
 - (c) the place at which tenders must be made;
 - (d) that any person as follows (an *affected person*) in relation to land in the tender release area may make submissions to the Minister about the call for tenders—
 - (i) a landholder of the land;
 - (ii) a person who has an interest in the land;
 - (iii) a local government whose local government area includes the land;
 - (iv) a native title body for the land;
 - (v) a person who has a mining interest in the land;
 - (e) the place at which submissions under paragraph (d) must be made;
 - (f) details about any of the following that are likely to impact significantly on geothermal exploration in the tender release area—
 - (i) proposed tenure conditions that may apply to any permit granted;²

2 See section 29 (Power to impose conditions).

- (ii) minimum requirements for any proposed work program;
- (g) what parts of the tender release area will, if the permit is granted, be embargoed land for the permit;³
- (h) any other specific requirements to which the tender may be subject.

18 Area requirements for tender release area

- (1) This section applies if the Minister is deciding a tender release area.⁴
- (2) The area must not include the following land (*excluded land*)—
 - (a) land in a forest reserve or protected area under the *Nature Conservation Act 1992*;
 - (b) other land, or a stated type of land, prescribed under a regulation.
- (3) The area may include a part of a sub-block (a *residual sub-block*) only if the part is the result of the non-inclusion of excluded land.
- (4) The area must not be more than 200 sub-blocks or residual sub-blocks, in any combination.
- (5) The area must not include sub-blocks or residual sub-blocks—
 - (a) that consist entirely of embargoed land; or
 - (b) in the area of an existing geothermal exploration permit.

19 Changes to excluded land do not affect existing permits

- (1) This section applies if—
 - (a) a geothermal exploration permit is granted; and
 - (b) the excluded land for tender release areas changes after the grant.

³ See section 84 (Minister's power to decide embargoed land).

⁴ See also section 84 (Minister's power to decide embargoed land).

- (2) To remove any doubt, it is declared that the change does not affect the area of the permit.

Division 2 Tendering

20 Right to tender

- (1) Any person may, under section 21, tender for a proposed geothermal exploration permit for all or part of the tender release area stated in a call for tenders.⁵
- (2) However—
- (a) a tender can not be made after the closing time for the call; and
 - (b) a tender for only part of the tender release area must be for whole sub-blocks or residual sub-blocks.

21 Requirements for making tender

- (1) A tender for a proposed geothermal exploration permit must—
- (a) be made to the Minister in the approved form; and
 - (b) be lodged at the place stated in the call for tenders; and
 - (c) describe the area of the proposed permit; and
 - (d) include a proposed work program that complies with section 22; and
 - (e) meet any requirements stated in the relevant call for tenders; and
 - (f) state the financial and technical resources the tenderer proposes to commit to geothermal exploration under the proposed permit; and
 - (g) state the tenderer's access to relevant financial and technical resources; and
 - (h) state—

⁵ See, however, section 31 (Restrictions on grant).

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- (i) the tenderer's address for service; and
 - (ii) the person to whom service of notices under this Act on the tenderer or the holder of the proposed permit may be given; and
- (i) be accompanied by the fee prescribed under a regulation.
- (2) The area described under subsection (1)(c) can not include land not within the tender release area for the call for tenders.

22 Requirements for proposed work program

- (1) For section 21(1)(d), a proposed work program must—
 - (a) identify for each year of the proposed geothermal exploration permit—
 - (i) the proposed specific objectives for the year; and
 - (ii) the means by which it is proposed to achieve the proposed specific objectives; and
 - (iii) an estimate of the cost of the proposed means; and
 - (b) demonstrate that it is appropriate for the proposed area of the permit; and
 - (c) include evidence that the tenderer has access to the financial and technical resources necessary to carry out the proposed work; and
 - (d) meet any minimum requirements stated in the relevant call for tenders.
- (2) The proposed specific objectives must—
 - (a) be reasonably achievable before the end of the year for which each objective is proposed; and
 - (b) be able to be achieved in a way that can be clearly demonstrated; and
 - (c) require the permit holder to—
 - (i) carry out efficient and responsible geothermal exploration; and
 - (ii) enhance knowledge of the State's geothermal resources.

- (3) In this section—

year of a work program means each period of 12 months starting on the day, or the anniversary of the day, the geothermal exploration permit takes effect.

23 Right to terminate call for tenders

- (1) The Minister may, by gazette notice, terminate a call for tenders at any time before deciding to grant a geothermal exploration permit to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.

24 Amending tenders

A tenderer for a geothermal exploration permit may, by a notice to the Minister, amend the tender at any time before the closing time for the relevant call for tenders.

Part 3 Submissions by affected parties

25 Right of affected person to make submissions

- (1) An affected person for land in a tender release area for a call for tenders may make submissions to the Minister about the call for tenders.
- (2) The submissions must—
- (a) state—
 - (i) the name, address and contact details for the affected person; and
 - (ii) the land the subject of the submissions; and

- (iii) details of any issue relating to the call for tenders the affected person wishes the Minister to consider; and
- (b) be made—
 - (i) at the place stated in the call for tenders; and
 - (ii) before the closing time for the call.
- (3) The submissions must relate to all or part of the tender release area.
- (4) Submissions made under this section are *properly made submissions* for the call for tenders.

Part 4 Deciding tenders

26 Deciding whether to grant permit

- (1) The Minister must, after the closing time for a call for tenders, consider all tenders made in response to the call and decide—
 - (a) if there is only 1 tender—whether to grant a geothermal exploration permit to the tenderer over all or part of the land applied for; or
 - (b) if there is more than 1 tender, whether to grant a geothermal exploration permit to 1 or more of the tenderers over all or part of the land applied for;⁶ or
 - (c) not to grant a geothermal exploration permit to any tenderer.
- (2) However—
 - (a) before the Minister makes a decision under subsection (1), the Minister must consider all properly made submissions for the call for tenders; and

⁶ See also section 84 (Minister's power to decide embargoed land).

- (b) the Minister can not decide to grant a tenderer a geothermal exploration permit unless the tenderer is an eligible person; and
 - (c) the Minister can not grant more than 1 geothermal exploration permit over the same area.
- (3) If there is more than 1 tenderer, the Minister may use any process to make the decision under subsection (1) the Minister considers appropriate, including, for example, a process appointing a preferred tenderer.

27 Restriction on removal of approved tenderer

If the Minister has, under section 26(3), appointed a preferred tenderer, the Minister may cancel the appointment only if the Minister has given the preferred tenderer a reasonable opportunity to be heard in relation to the cancellation.

28 Criteria for deciding whether to grant permit

- (1) The matters the Minister must consider in making the decision under section 26 include whether—
- (a) the granting of the permit is in the interests of the State; and
 - (b) the tenderer is seeking the permit to genuinely carry out geothermal exploration under the permit.
- (2) In considering whether the grant is in the interests of the State, the Minister must have regard to—
- (a) the extent to which the tenderer is capable of carrying out geothermal exploration under the permit, having regard to the tenderer's access to financial and technical resources; and
 - (b) the tenderer's history of compliance with this Act or other legislation related to resource exploration of the State or elsewhere, of which the Minister is aware.
- (3) For subsection (2)(a), the Minister may have regard to—
- (a) if the tenderer is a corporation—whether any action has been taken by or against it or any holding company of

the tenderer that may result in it becoming an externally-administered body corporate; or

- (b) if the tenderer is an individual—whether any action has been taken by or against the individual that may result in the individual becoming an insolvent under administration; or
 - (c) the tenderer’s existing and proposed commitments of financial and technical resources to resource exploration in the State or elsewhere.
- (4) The matters mentioned in this section are the *suitability criteria*.
- (5) The suitability criteria do not limit the matters the Minister may have regard to in deciding whether to grant the permit.

29 Power to impose conditions

- (1) The Minister may, in deciding to grant a geothermal exploration permit, impose conditions on the permit that are not inconsistent with the mandatory conditions.
- (2) However, a condition can not be imposed if it—
 - (a) relates to the management of environmental impacts; or
 - (b) authorises unlawful environmental harm as defined under the *Environmental Protection Act 1994*.
- (3) Before imposing a condition under this section, the Minister must consider all properly made submissions for the call for tenders.

30 Requirement to obtain relevant authority, licence or approval

The Minister may, before deciding whether to grant a geothermal exploration permit, require the tenderer to obtain a relevant licence, approval or authority under another Act.

Examples—

- An environmental authority for an environmentally relevant activity under the *Environmental Protection Act 1994* the carrying out of which is authorised under this Act.

- A water entitlement under the *Water Act 2000* that is needed to carry out an activity authorised under this Act, other than under section 39.

31 Restrictions on grant

If the Minister decides to grant the permit, it must not be granted unless—

- (a) the annual rent for the first year of the permit has been paid; and
- (b) the tenderer has given the State security for the permit in the form and amount prescribed under a regulation; and
- (c) the tenderer has agreed in writing to the tenure conditions and the term of the permit as decided by the Minister;⁷ and
- (d) the Minister and the tenderer have agreed about the specific objectives for the permit; and
- (e) if the Minister has made a requirement under section 30—the requirement has been complied with.

32 Grant of permit

- (1) This section applies only if the Minister decides to grant a geothermal exploration permit and any restrictions under section 31 do not apply or have ceased to apply.
- (2) The Minister is taken to have granted the permit on the first day of the next month.
- (3) The chief executive must—
 - (a) to record the permit—create and keep in the geothermal register an instrument for the permit in the approved form; and
 - (b) give the permit holder a copy.

⁷ For the term, see section 33 (Term of permit).

33 Term of permit

- (1) The term of the permit is the term decided by the Minister.
- (2) However, the term of the permit must not be for more than 5 years after it is granted.

34 Notice to unsuccessful tenderers

If the Minister decides not to grant a geothermal exploration permit to a tenderer, the chief executive must, as soon as practicable, give the tenderer a notice of the decision.⁸

Chapter 4 Geothermal exploration permits

Part 1 Rights under geothermal exploration permits

35 Geothermal exploration

- (1) A permit holder may, subject to this Act and the conditions of the permit, carry out geothermal exploration in any part of the area of the permit to which access is provided under chapter 5.⁹
- (2) However, if land in the area of the permit is also subject to a mining interest, geothermal exploration can not be carried out on the land if—
 - (a) carrying out the exploration adversely affects the carrying out of an activity under the mining interest; and

8 See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

9 Chapter 5 (Access)

See, in particular, sections 85 (Effect of embargoed land for permit) and chapter 5, part 2 (Restricted land).

- (b) the activity under the mining interest has already started.
- (3) Also, if a bore in the area of the permit is being used by someone else under another Act, the bore may be used by the holder only if, under chapter 7, part 5, control of the bore is transferred to the permit holder.

36 Geothermal exploration rights may be exercised by authorised persons

- (1) Section 35 also applies for any of the following persons (an *authorised person* for the permit) acting within the scope of the person's authority from the holder—
 - (a) if the holder is a corporation—its officers and employees;
 - (b) the holder's employees or partners who are individuals;
 - (c) agents of, or contractors for, the holder;
 - (d) officers and employees of, or agents of, or contractors for, agents or contractors mentioned in paragraph (c).
- (2) The authority may be express, or implied from—
 - (a) the nature of the relationship between the authorised person and the holder; or
 - (b) the duties the person performs for the holder; or
 - (c) the duties a person mentioned in subsection (1) customarily performs.

37 Access to permit area

Subject to chapter 5, a permit holder or an authorised person for the permit may enter the area of the permit to exercise the right under section 35(1).¹⁰

38 No obstruction of access right

A person who—

¹⁰ See also section 97 (Entry authority to comply with requirement after permit ceases or area reduced).

- (a) has a right to enter the area of a geothermal exploration permit; and
- (b) is not the permit holder or an authorised person for the permit;

must not unreasonably obstruct the permit holder or the authorised person from exercising the right under section 37.

Maximum penalty—100 penalty units.

39 Taking, interfering with and using water for geothermal exploration

- (1) A permit holder or an authorised person for the permit may take, interfere with and use underground water for geothermal exploration if the taking, interference or use—
 - (a) happens during—
 - (i) the carrying out of geothermal exploration in the area of the permit; or
 - (ii) the compliance with a requirement or condition mentioned in section 97(1); and
 - (b) is reasonably unavoidable.
- (2) The holder or authorised person is not required to hold an authority under the *Water Act 2000* for the taking or interference.

39A Taking samples in geothermal exploration

- (1) To remove any doubt, it is declared that the right of a permit holder under section 35 includes the right of the holder or an authorised person for the permit to take samples of materials from any part of the area of the permit in which geothermal exploration may, under section 35, be carried out.
- (2) However, subsection (1) applies only to the extent that the taking of the samples is necessary for geothermal exploration in the area of the permit.

39B Ownership of samples taken in geothermal exploration

Subject to section 107, samples of materials necessarily taken for geothermal exploration by a permit holder or an authorised person for the permit in compliance with this Act become the property of the permit holder when they are taken.

Part 2 Mandatory conditions**40 Operation of pt 2**

- (1) This part imposes particular conditions on each geothermal exploration permit.
- (2) The imposed conditions, and any other conditions imposed under this Act (other than a tenure condition) on a geothermal exploration permit are *mandatory conditions*.¹¹
- (3) If a mandatory condition conflicts with a tenure condition, the mandatory condition prevails to the extent of the inconsistency.
- (4) As well as imposing a condition, sections 45, 47 and 50 also impose a penalty.

41 Compliance with agreed specific objectives

- (1) The permit holder must achieve the agreed specific objectives for the permit on or before the time provided for in the objectives.¹²
- (2) Subsection (1) does not stop the holder from carrying out geothermal exploration not provided for in the specific objectives if this Act and the other conditions of the permit are complied with.

¹¹ See also section 96 (Requirement to give chief executive copy of notice of entry).

¹² For the agreed specific objectives see section 31(d) (Restrictions on grant).

42 No unauthorised activities

The permit holder must not carry out, or authorise the carrying out of, an activity in the area of the permit unless it is authorised or provided for under this Act or another Act.

43 Annual rent and interest

- (1) The permit holder must pay the State the annual rent for the permit, as prescribed under a regulation.
- (2) The annual rent must be paid in the way, and on or before the day prescribed under a regulation.
- (3) If the permit holder does not pay the annual rent, the holder must also pay the State interest at the rate prescribed under a regulation on the amount of the unpaid rent, starting on the day immediately after the amount became payable and ending on the day the unpaid rent is paid in full, both days inclusive.

44 Notice of significant change in membership of permit holder or holding company

If the permit holder is a company and there is a significant change in the membership of the holder or any holding company of the holder, the holder must, as soon as practicable, give the Minister a notice of the change.

45 No obstruction of other access rights

If someone else has the right to enter the area of the permit, the permit holder or an authorised person for the permit must not unreasonably obstruct the person from exercising that right.¹³

Maximum penalty—100 penalty units.

46 Improvement restoration

- (1) If an activity carried out by the permit holder or an authorised person for the permit causes damage to an improvement on, or

¹³ See also section 100 (Right to compensation).

attached to, land in the area of the permit, the holder must, within a reasonable period—

- (a) restore the improvement at least to the same, or substantially the same, condition that it was in before the damage happened; or
 - (b) replace it with another improvement in the condition mentioned in paragraph (a); or
 - (c) pay an agreed amount of compensation to the owner of the improvement.¹⁴
- (2) For subsection (1), damage does not include damage to which a requirement under another Act applies.

47 Obligation to remove equipment and plant

- (1) If the permit holder or an authorised person for the permit brings equipment or plant on to land in the area of the permit, the holder or person must remove it from the land before the required time, unless its continued presence on the land—
- (a) has been agreed to in writing by the landholder of the land; or
 - (b) is authorised under another Act.

Maximum penalty—100 penalty units.

- (2) In this section—

equipment or plant does not include equipment for a geothermal exploration bore if it is not reasonably practicable to remove it from the bore.

required time means the later of the following—

- (a) when the land ceases to be in the area of the permit;
- (b) if an entry authority under section 97 has been given for the land—the end of the period stated in the authority.

48 Notice of change of address for service

- (1) This section applies if any of the following change—

¹⁴ See also section 100 (Right to compensation).

- (a) the permit holder's address for service;
 - (b) the person to whom service of notices under this Act on the holder may be given.
- (2) The holder must give the chief executive a notice of the change within 20 business days.
- (3) The notice must be in the approved form and accompanied by the fee prescribed under a regulation.

49 Reporting

A permit holder must report to the chief executive about the following, in the way and at the times or intervals prescribed under a regulation—

- (a) geothermal exploration carried out in the area of the permit;
- (b) the results of the exploration.

49A Public release of required information

- (1) The mere fact of the existence of a geothermal exploration permit is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
- (a) publish, in the way prescribed under a regulation, required information for the permit for public use, including, for example, to support geothermal exploration;
 - (b) on payment of a fee prescribed under a regulation, make the information available to any person.
- (2) Any confidentiality period mentioned in subsection (1) ends if the information is about an authorised activity carried out solely in an area that is no longer in the area of the permit.
- (3) The authorisation is not affected by the ending of the permit.
- (4) In this section—

authorised activity, for a geothermal exploration permit, is an activity that its holder is, under this Act or the permit, entitled to carry out in relation to the permit.

49B Chief executive may use required information

The mere fact of the existence of a geothermal exploration permit is also taken to be an authorisation from its holder to the chief executive to use required information for the permit for—

- (a) purposes reasonably related to this Act that are required for the permit; or
- (b) the services of the State.

50 Notice of significant discovery

If a permit holder or an authorised person for the permit discovers a significant occurrence of any of the following in the area, the holder must, as soon as practicable, give the chief executive a notice of the discovery—

- (a) geothermal material;
- (b) petroleum, as defined under the *Petroleum and Gas (Production and Safety) Act 2004*;
- (c) a mineral, as defined under the *Mineral Resources Act 1989*.

Maximum penalty—500 penalty units.

51 Compliance with directions

The permit holder must comply with any direction given to the holder under this Act.¹⁵

52 Conditions imposed under a regulation

The permit holder must comply with any conditions for the permit prescribed under a regulation.

¹⁵ See sections 55 (Replenishment of security) and chapter 7, part 1 (Directions).

Part 2A Renewal of term of permit

52A Conditions for making application to renew the term of a permit

- (1) A permit holder may apply to renew the term of the permit (a *renewal application*) only if—
 - (a) annual rent on the permit and interest payable on the rent are not outstanding; and
 - (b) prescribed security is still in force for the permit.
- (2) Also, the application can not be made—
 - (a) more than 60 business days before the end of the term of the permit as stated in the permit (the *original term*); or
 - (b) after the permit has ended.

52B Requirements for making application

- (1) The application must—
 - (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging extension applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) if no office is gazetted under subparagraph (i) or stated under subparagraph (ii)—the office of the chief executive; and
 - (c) address the suitability criteria; and
 - (d) include a proposed later work program that complies with section 22; and
 - (e) be accompanied by the application fee prescribed under a regulation.
- (2) For subsection (1)(d), section 22 applies as if—

- (a) a reference to a proposed work program were a reference to a later work program; and
- (b) a reference to the proposed geothermal exploration permit were a reference to the permit for the term for which it is proposed to be renewed.

52C Continuing effect of permit for extension application

- (1) This section applies if the original term ends before the application is decided.
- (2) Despite the ending of the term, the permit continues in force until the earliest of the following to happen—
 - (a) if the application is granted—the start of the term for which the permit is, under section 52H, decided to be renewed (the *renewed term*);
 - (b) a refusal of the application takes effect;
 - (c) the withdrawal of the application;
 - (d) the cancellation under this Act of the permit.
- (3) Subsection (4) applies if the application is withdrawn or the permit is cancelled under this Act before the application is decided.
- (4) The Minister must refund the applicant any annual rent overpaid because of the withdrawal or cancellation based on the proportion that the whole months remaining until the end of the year for which the rent was paid bears to the whole of that year.

52D General provisions for deciding application

- (1) The Minister must, in deciding the application, have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the applicant.
- (2) The Minister can not grant the application unless the Minister is satisfied—
 - (a) the activities proposed to be carried out under the permit during the renewed term are appropriate and acceptable; and

- (b) the applicant has substantially complied with the permit; and
 - (c) the applicant continues to be an eligible person to hold a permit.
- (3) This section does not limit the matters the Minister may have regard to in making the decision.

52E Requirement to obtain relevant authority, licence or approval

The Minister may, as a condition of granting the application, require the applicant to obtain a relevant licence, approval or authority under another Act.

Examples—

- an environmental authority for an environmentally relevant activity under the *Environmental Protection Act 1994* the carrying out of which is authorised under this Act
- a water entitlement under the *Water Act 2000* that is needed to carry out an activity authorised under this Act if section 39 does not apply

52F Power to impose conditions

- (1) If the Minister decides to grant the application, the Minister may impose conditions on the permit for the renewed term that are not inconsistent with the mandatory conditions.
- (2) However, a condition can not be imposed if it—
- (a) relates to the management of environmental impacts; or
 - (b) authorises unlawful environmental harm as defined under the *Environmental Protection Act 1994*.
- (3) To remove any doubt, it is declared that the tenure conditions of the permit for the renewed term may be different from its current tenure conditions.

Note—

For when the conditions start, see sections 52H(5) and 52I(b).

52G Area of permit for renewed term

- (1) If the Minister decides to grant the application, the Minister must decide the area of the permit for its renewed term.
- (2) The area of the permit for its renewed term can not be larger than the area (the *original area*) of the permit immediately before the term of the permit is renewed.
- (3) The area of the permit for its renewed term may be smaller than the original area.

52H Renewed term

- (1) The length of the renewed term is decided by the Minister.
- (2) However, the renewed term can not be for more than 3 years.
- (3) If the extension is made before the original term ends, the renewed term is taken to start from the end of the original term.
- (4) If the extension is made after the original term ends, the renewed term is taken to have started immediately after the end of that term.
- (5) However if subsection (4) applies—
 - (a) the tenure conditions of the permit for the renewed term do not start until the permit holder has agreed to them, under section 52I(b); and
 - (b) until the permit holder has so agreed, the tenure conditions of the permit for the original term that would otherwise have been in force apply to the renewed term as if they were the tenure conditions of the permit for the renewed term.

52I Restrictions on making extension

If the Minister decides to grant the application, the extension can not be made unless—

- (a) the annual rent for the first year of the renewed term has been paid; and

- (b) the applicant has agreed in writing to the tenure conditions of the permit for the renewed term and the length of the renewed term; and
- (c) prescribed security is still in force for the permit; and
- (d) the Minister and the applicant have agreed about the specific objectives for the permit for the renewed term; and
- (e) if the Minister has made a requirement under section 52E—the requirement has been complied with.

52J Withdrawal of application if tenure conditions and term not agreed to

The application is taken to have been withdrawn if—

- (a) the Minister has decided to grant the application, and has given the applicant notice of the tenure conditions of the permit for the renewed term and the length of the renewed term; and
- (b) the applicant has not, within 30 business days after the giving of the notice, agreed in writing to the tenure conditions and the length of the renewed term.

52K Making extension of permit

- (1) This section applies only if the Minister decides to grant the application and any restrictions under section 52I do not apply or have ceased to apply.
- (2) The chief executive must—
 - (a) make the extension of permit by complying with section 123(3) in relation to the instrument for the permit to reflect the particulars of the renewed term of the permit as decided under this part; and
 - (b) give the applicant a copy of the amended instrument for the permit.

52L Information notice about refusal

If the Minister decides to refuse the application the Minister must, as soon as practicable after the decision is made, give the applicant an information notice about the decision.

52M When refusal takes effect

A refusal of the application does not take effect until the end of the appeal period for the decision to refuse.

Note—

See sections 110 (Period to appeal) and 112 (Stay of operation of decision).

Part 3 General provisions about security**52N Continuance of security for renewal of term**

- (1) This section applies if, under part 2A, the term of a geothermal exploration permit is renewed.
- (2) The security for the permit in force immediately before the extension is taken to continue in force as security for the permit for the renewed term despite any change to the permit decided under part 2A for the making of the extension.
- (3) Without limiting subsection (2), the extension does not—
 - (a) discharge or release a surety or other obligee, wholly or partly, from an obligation under the security; or
 - (b) fulfil a condition allowing a person to terminate the security or be released, wholly or partly, from an obligation; or
 - (c) modify the operation or effect of the security.
- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the continuance of the security under subsection (2)—

- (a) the advice is taken to have been obtained; and
- (b) the consent or notice is taken to have been given.

520 Minister's power to require additional security

- (1) The Minister may, at any time, require a permit holder to increase the amount of security given for a permit.
- (2) If, because of an increase in the prescribed amount under section 31(b), the requirement is to increase the total security required to no more than the increased prescribed amount, the requirement must be made by notice to the holder.
- (3) If the requirement is to increase the total security required to more than the prescribed amount under section 31(b) when the requirement is made—
 - (a) subsections (4) to (6) must be complied with before making the requirement; and
 - (b) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (4) The Minister must give the holder notice—
 - (a) stating the proposed increased amount of the security for the permit; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (5) The stated period must end at least 20 business days after the holder is given the notice.
- (6) Any submissions lodged by the holder within the stated period must be considered before deciding to make the requirement.
- (7) In this section—

security given, includes security given or increased because of a requirement under subsection (1).

53 Power to use security

(1) Subject to section 54, security for a geothermal exploration permit¹⁶ may be used by the State to pay the costs of remedying a contravention of the permit or of this Act in relation to the permit, including, for example, for a purpose as follows—

- (a) to rectify loss or damage to improvements;
- (b) to remove plant or equipment;
- (c) to close a borehole;
- (d) to satisfy a debt, other than a penalty, owing to the State under this Act;
- (e) to rectify a breach of a mandatory condition or tenure condition of the permit.
- (f) to pay compensation payable to anyone under this Act.¹⁷

(2) In this section—

geothermal exploration permit includes a geothermal exploration permit that has ended the security for which is still being kept under section 56.

54 Notice of claim on security

(1) Before security for a geothermal exploration permit may be used, the Minister must—

- (a) give the permit holder a notice stating each of the following—
 - (i) the purpose for which the security is proposed to be used;
 - (ii) the amount of the security proposed to be used;

16 For the requirement to give security before grant, see section 31 (Restrictions on grant).

17 See section 100 (Right to compensation).

- (iii) that the holder may make submissions to the Minister about the proposed use;
 - (iv) a reasonable period for the submissions to be made; and
 - (b) consider any submissions made by the holder within the stated period.
- (2) In this section—
- holder**, for a geothermal exploration permit that has ended, means the person who held the permit immediately before it ended.

55 Replenishment of security

- (1) This section applies, if—
- (a) under this part, all or part of the security for a geothermal exploration permit has been used; and
 - (b) the permit is still in force.
- (2) The Minister must give the permit holder a notice—
- (a) stating how much of the security has been used; and
 - (b) directing the holder to, within 20 business days after the giving of the notice, replenish the security to make it a prescribed security.

55A Replacement of security

- (1) This section applies if—
- (a) the security for a geothermal exploration permit is given by way of a bond, guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or credit provider (an **external security provider**); and
 - (b) the external security provider is or becomes subject to any action taken by or against it, or any holding company of it, that may result in the external security provider becoming an externally-administered body corporate.

- (2) The Minister may, by written notice given to the permit holder, direct the holder to replace the security with another prescribed security.
- (3) On the replacement of the security, the security held for the permit immediately before the replacement must be refunded to the external security provider.

55B Security not affected by change in permit holder

- (1) This section applies if security is given for a geothermal exploration permit that is still in force and there is a subsequent change in the permit holder.
- (2) Despite the change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 53.
- (3) The permit holder's name as stated in any instrument under which the security was given is taken to have been changed to reflect the change.
- (4) If the security is in the form of money, until the security is replaced or refunded it continues for the holder from time to time of the permit.

56 Retention of security

- (1) The security, or part of the security, for a geothermal exploration permit may be kept for no more than 6 months after the permit has ended.
- (2) However, if—
 - (a) a claim has been made before the end of the 6 month period for an amount for which the security may, under section 53, be used to pay; and
 - (b) the amount has not been assessed;an appropriate amount of the security to meet the claim may be kept until the amount has been assessed.
- (3) Subsection (4) applies if the security was given by way of a bond, guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or credit provider (an *external security provider*).

call for tender condition means a tenure condition of the permit that is the same, or substantially the same, as a condition that, under section 17(3)(f)(i), was proposed for the permit.

58 Deciding application

- (1) This section applies subject to—
 - (a) any additional requirements under subdivisions 2 to 6 for the deciding of the application or the taking effect of the decision; and
 - (b) section 133A.
- (2) The Minister must decide whether to grant or refuse all or part of the application.
- (3) If the decision is to grant all or part of the application, the chief executive must, as soon as practicable—
 - (a) amend the instrument for the permit to reflect the decision; and
 - (b) give the applicant a notice of the decision.
- (4) If the decision is to refuse all or part of the application, the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice about the decision.

Subdivision 2 Additional provisions for amendment of tenure conditions

59 Making application

An application to amend a tenure condition must state sufficient grounds to justify why the Minister should make the amendment.

60 Deciding application

The Minister must, in deciding the application, have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the applicant.

Subdivision 3 Additional provisions for deferral of agreed specific objective**61 Making application**

- (1) An application to defer the time provided for achievement of an agreed specific objective for a geothermal exploration permit can not be made if—
 - (a) a previous application has been made to defer achievement of that agreed specific objective; or
 - (b) the deferral sought is more than 12 months; or
 - (c) the deferral, if granted, would extend the time beyond the current term of the permit; or
 - (d) the time—
 - (i) has ended; or
 - (ii) unless deferred, ends within 20 business days after the application is made.
- (2) The application must state sufficient grounds to justify why the Minister should consider the deferral sought.
- (3) The deferral sought must be a multiple of whole months.
- (4) In this section—

previous application does not include an application that is not a properly made application.

62 Deciding application

- (1) The Minister may grant the application only if satisfied events beyond the holder's control justify the deferral.
- (2) For subsection (1), events beyond the holder's control—

- (a) do not include a failure to obtain enough financial resources; but
- (b) may include a failure to obtain enough technical resources if the Minister is satisfied there is clear evidence that reasonable endeavours have been made to obtain the resources.

Subdivision 4 Additional provisions for deferral of giving of reports and samples

63 Making application

- (1) An application to defer compliance with section 49 or 107 in relation to the giving of a particular report or samples can not be made if—
 - (a) a previous application has been made to defer the compliance for the giving of the report or samples; or
 - (b) the extension sought is more than 3 months; or
 - (c) the time for the compliance—
 - (i) has ended; or
 - (ii) unless deferred, ends within 20 business days after the application is made.
- (2) The application must state sufficient grounds to justify why the Minister should consider the deferral sought.
- (3) The deferral sought must be a multiple of whole months.
- (4) In this section—

previous application does not include an application that is not a properly made application.

64 Deciding application

The Minister may grant the application only if satisfied events beyond the holder's control justify the deferral.

Subdivision 5 Additional provisions for surrenders

65 Making application

An application to surrender all or part of a geothermal exploration permit must be accompanied by—

- (a) a report under section 49 for the surrender; and
- (b) evidence the holder has complied with sections 46 and 47.

66 Deciding application

- (1) The Minister may decide to grant the application only if the applicant has complied with sections 46, 47 and 49 in relation to the proposed surrender.
- (2) If the decision is to accept all or part of the surrender—
 - (a) the surrender takes effect on the last day of the month in which the acceptance was made; and
 - (b) the Minister must refund the applicant any annual rent overpaid because of the surrender, worked out proportionately for the whole months remaining until the end of the year for which the rent was paid.

Subdivision 6 Additional provisions for transfers

67 Transfer only by application

A purported transfer of a geothermal exploration permit, or of a holder's interest in a geothermal exploration permit, not made under this part is of no effect.

68 Additional requirements for making application

- (1) An application to transfer a geothermal exploration permit or a holder's interest in a geothermal exploration permit can only be made by all holders of the permit and all proposed transferees.

- (2) The application may be made only if—
 - (a) more than 1 year has passed since the permit took effect; and
 - (b) either—
 - (i) no condition of the permit has been contravened; or
 - (ii) if a condition has been contravened—the contravention has been remedied or addressed; and
 - (c) either—
 - (i) no proposed action notice has been given in relation to the permit; or
 - (ii) if a proposed action notice has been given—the chief executive has given the permit holder a notice that the proposed action will not be taken or that the action has been resolved.
- (3) The application must show the proposed transferee's ability to comply with the suitability criteria as if the application were a tender for the permit.

69 Deciding application

The Minister must, in deciding the application, have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the proposed transferee.

70 Steps after approval

- (1) If the decision is to grant the application, the chief executive must, as soon as practicable, give the applicants a notice of the decision.
- (2) The transfer takes effect on a day fixed by a notice from the applicants to the chief executive.
- (3) However, the decision has no effect and the transfer does not take effect if a notice under subsection (2) is not given within 3 months after the giving of the notice under subsection (1).

Division 2 Amendment and cancellation by Minister or chief executive

Subdivision 1 Amendment and cancellation powers

71 Chief executive's power to correct error

The chief executive may amend a geothermal exploration permit to correct an error.¹⁸

72 Minister's power to amend permit area or tenure conditions

- (1) The Minister may amend a geothermal exploration permit by—
 - (a) amending any of its tenure conditions; or
 - (b) reducing its area.
- (2) However, the amendment or reduction may be made only if—
 - (a) the permit holder has, in writing, agreed to the amendment or reduction; or
 - (b) the Minister considers the amendment necessary or desirable because of a ground mentioned in section 73 or 74 and the procedure under subdivision 2 is followed.
- (3) This section does not limit or otherwise affect a power under another provision of this Act to amend a geothermal exploration permit.¹⁹

73 Grounds for amending tenure condition

For section 72(2)(b), the grounds for amending a tenure condition are any of the following—

18 See also section 123 (Maintaining register).

19 See division 1 (Applications) and sections 71 (Chief executive's power to correct error) and 86 (Release of embargoed land).

- (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
- (b) a reduction of area of the permit;
- (c) a release of embargoed land for the permit;
- (d) if there is more than 1 holder of the permit—the interest of all of the holders in the permit changes by more than 10%;
- (e) if the holder is a company—there is a significant change in its membership.

74 Grounds for reducing permit area

- (1) For section 72(2)(b), the grounds for reducing the area of a permit are any of the following—
 - (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
 - (b) the Minister is of the opinion that a holder of the permit is no longer suitable to be a holder of the permit;
 - (c) the permit or a holder's interest in the permit was obtained because of a materially false or misleading declaration or representation, made orally or in writing.
- (2) In considering whether the holder is suitable to hold the permit, the Minister must have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the holder.

75 Minister's power to cancel or suspend

- (1) The Minister may, if the conditions under subsection (3) have been complied with, cancel or suspend a geothermal exploration permit.
- (2) The suspension must be a suspension of one of the following types—
 - (a) a suspension (a *complete suspension*) that does not allow the exercise of any of the rights under chapter 4,

- part 1, in relation to the permit in any part of area of the permit;
- (b) a suspension (a *limited suspension*) of particular rights under chapter 4, part 1, in relation to the permit for all or part of its area.
- (3) For subsection (1), the conditions are that—
- (a) the Minister considers the cancellation or suspension necessary or desirable; and
 - (b) for cancellation—the Minister may, under section 72, reduce the area of the permit; and
 - (c) for suspension—a ground under section 76 exists; and
 - (d) the following provision is complied with—
 - (i) for cancellation or suspension without immediate suspension—subdivision 2;
 - (ii) for immediate suspension—subdivisions 2 and 3.

76 Grounds for suspension

- (1) For section 75(3)(c), the grounds for suspension are any of the following—
- (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
 - (b) the Minister is of the opinion that the holder is no longer suitable to hold the permit;
 - (c) the giving of a direction under section 102 or 103;
 - (d) security for the permit is, or may be, insufficient to remedy the contravention and any other contravention of this Act or condition of the permit by the permit holder or an authorised person for the permit;
 - (e) the permit or a holder's interest in the permit was obtained because of a materially false or misleading declaration or representation, made orally or in writing.
- (2) In considering whether the holder is suitable to hold the permit, the Minister must have regard to the suitability criteria

as if a reference in the criteria to a tenderer were a reference to the holder.

Subdivision 2 General procedure for amendment, cancellation and suspension by Minister

77 Application of sdiv 2

This subdivision applies if the Minister proposes—

- (a) under section 72, to amend a tenure condition, or reduce the area, of a geothermal exploration permit other than with the written agreement of its holder; or
- (b) to cancel or suspend a geothermal exploration permit.

78 Notice of proposed action

- (1) The Minister must give the permit holder a notice (a *proposed action notice*) stating each of the following—
 - (a) the action (the *proposed action*) the Minister proposes to take under this division;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to amend—the proposed amendment;
 - (e) if the proposed action is to suspend—
 - (i) the proposed suspension period; and
 - (ii) whether the proposed suspension is a complete suspension or a limited suspension; and
 - (iii) if the proposed suspension is a limited suspension—
 - (A) the rights under chapter 4, part 1, that are proposed to be suspended; and

- (B) whether the suspension is for all or part of the area of the permit; and
 - (C) if the suspension is for part of the area—that part;
 - (f) that the holder may, within a stated period (the *submission period*), make submissions to show why the proposed action should not be taken.
- (2) The submission period must end at least 20, but no more than 40, business days after the proposed action notice is given.
 - (3) The proposed suspension period may be fixed by reference to a stated event.

79 Minister may seek submissions from others

The Minister may, before or during the submission period, seek submissions about the proposed action from an affected person for land in the area of the permit or from other relevant persons.

80 Considering submissions

The Minister must consider any submissions under section 78(1)(f) or 79 made within the submission period.

81 Decision on proposed action

- (1) If, after complying with section 80, the Minister still believes a ground exists to take the proposed action, the Minister may decide to take all or part of the proposed action.
- (2) The decision takes effect on the later of the following—
 - (a) the day the chief executive gives the permit holder an information notice about the decision;
 - (b) a later day stated in the notice.
- (3) If the Minister at any time decides not to take the proposed action, the chief executive must give the permit holder a notice of the decision.

Subdivision 3 Immediate suspension

82 Power of and procedure for immediate suspension

- (1) The Minister may, by a notice (an *immediate suspension notice*) to the permit holder, impose an immediate suspension on the permit if—
 - (a) the Minister has given the holder a proposed action notice; and
 - (b) a ground under section 83 exists.
- (2) The immediate suspension notice may include, or be accompanied by, a proposed action notice.
- (3) The immediate suspension notice must state each of the following—
 - (a) whether the suspension is a complete suspension or a limited suspension;
 - (b) if the suspension is a limited suspension—
 - (i) the rights under chapter 4, part 1, that are suspended; and
 - (ii) whether the suspension is for all or part of the area of the permit; and
 - (iii) if the suspension is for part of the area—that part;
 - (c) that the suspension takes effect immediately and continues until the Minister gives the holder a notice—
 - (i) of the Minister's decision under section 81; or
 - (ii) that the Minister has decided not to take the proposed action;
 - (d) the grounds for the suspension;
 - (e) the facts and circumstances forming the basis for the grounds;
 - (f) that the permit holder may make submissions to the Minister to show why the suspension should end.
- (4) The suspension has effect when the permit holder is given the immediate suspension notice.

- (5) Each of the stated rights do not apply for the stated area in relation to the permit during the suspension period.

83 Grounds for immediate suspension

For section 82(1)(b), the grounds are that—

- (a) the Minister reasonably believes the permit holder or an authorised person for the permit has contravened, is contravening or may contravene this Act or a condition of the permit and—
- (i) the contravention has caused, is causing, or will probably cause, a risk to health or safety; or
 - (ii) the contravention has caused, is causing, or will probably cause, a private or public nuisance at common law; or
 - (iii) security for the permit is, or may be, insufficient to remedy the contravention and any other contravention of this Act or condition of the permit by the permit holder or an authorised person for the permit; or
- (b) the Minister has given the permit holder a proposed action notice for a proposed direction under section 102 and the landholder's concern for which the direction is proposed relates to a matter mentioned in paragraph (a); or
- (c) the Minister has given the permit holder a proposed action notice for a proposed direction under section 103 and the direction is proposed to be given on a ground mentioned in section 103(1)(a), (c) or (d).

Part 5 Provisions for GHG authorities

Division 1 Preliminary

83A Relationship with other provisions

- (1) Requirements or restrictions under this part about a matter are in addition to any relevant requirements or restrictions under another provision of this Act.
- (2) This part does not otherwise limit or affect relevant requirements or restrictions under another provision of this Act.

83B What is an *overlapping GHG authority*

An *overlapping GHG authority*, for a permit or proposed permit, is a GHG authority, all or part of the area of which under the GHG storage Act is in the area of the permit or proposed permit.

83C General provision about permits for land subject to GHG authority

Subject to the other provisions of this chapter, the GHG storage Act or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a permit; or
- (b) the carrying out of authorised activities for a permit.

Division 2 Restrictions on authorised activities

83D Permit overlapping with GHG lease

- (1) This section applies if—
 - (a) land in the area of a permit is in the area of a GHG lease;and

- (b) the permit and the GHG lease are not held by the same person.
- (2) An authorised activity for the permit may be carried out on the land only if—
 - (a) the GHG lease holder has not in the way required under subsection (3), objected to the carrying out of the activity; or
 - (b) if an objection under paragraph (a) has been made—the Minister has decided under section 83F that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 83H.

- (3) The objection must be written, given to the GHG authority holder and lodged at the relevant departmental office.

83E Overlaps with other GHG authorities

- (1) This section applies if land is in the area of a permit and a GHG authority other than a GHG lease.
- (2) An authorised activity for the permit can not be carried out on the land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the GHG authority; and
 - (b) the authorised activity for the GHG authority has already started.

83F Resolving disputes about the restrictions

- (1) This section applies if under section 83D, a GHG lease holder has objected to the carrying out of an authorised activity by a permit holder.
- (2) This section also applies if—
 - (a) section 83E applies to a permit holder and a GHG authority holder; and
 - (b) there is a dispute between the holders about whether an authorised activity for the authority to prospect can be carried out under that section.

- (3) Either of the parties may by a notice in the approved form ask the Minister to decide—
 - (a) for section 83D—whether the authorised activity may be carried out under that section; or
 - (b) for section 83E—whether the authorised activity may be carried out under that section.
- (4) Before making the decision, the Minister must give the parties a reasonable opportunity to make written submissions about the request within a reasonable period.
- (5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- (6) The Minister’s decision binds the parties.
- (7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- (8) In this section—

parties means—

 - (a) for a request about a matter mentioned in subsection (1)—the permit holder and the GHG lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the permit holder and the GHG authority holder.

Division 3 Additional conditions

83G Notice by geothermal exploration permit holder to particular GHG authority holders or applicants

- (1) This section applies if—
 - (a) a permit under this Act is granted; and
 - (b) land in the permit’s area is in the area of, or in a proposed area under an application for, a GHG authority other than a GHG lease.
- (2) It is a condition of the permit under this Act that its holder must within 20 business days after the holder receives notice

of the grant of the permit under this Act give the GHG authority holder or the applicant notice stating—

- (a) that the permit under this Act has been granted; and
- (b) the permit holder's name; and
- (c) the term of the permit.

83H Condition to notify particular GHG authority holders of proposed start of any authorised activity

- (1) This section applies to a permit holder if there is either of the following (the *other authority*) for the permit—
 - (a) an overlapping GHG authority;
 - (b) a GHG authority that shares a common boundary with the permit.
- (2) Before the permit holder first starts any authorised activity in the other authority's area, the permit holder must give the other authority holder at least 30 business days notice of the activity.
- (3) A notice under subsection (2) must state—
 - (a) when the authorised activity is to start; and
 - (b) where the authorised activity is to be carried out; and
 - (c) the nature of the activity.
- (4) Before changing the land on which the authorised activity is being carried out, the permit holder must give the other authority holder at least 30 business days notice stating the land on which the activity is to be carried out.
- (5) Compliance with this section is a condition of the permit.

Division 4 Additional provisions for safety management plans

83I Requirements for consultation with particular GHG tenure holders

- (1) This section applies if—

Geothermal Exploration Act 2004

- (a) a person (an *operator*) proposes to be an operator of operating plant in the area of a permit; and
 - (b) activities (*relevant activities*) carried out or proposed to be carried out at the plant may adversely affect the safe and efficient carrying out of GHG storage activities under an overlapping GHG authority for the permit; and
 - (c) the overlapping GHG authority is a GHG tenure.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the GHG tenure holder about relevant activities for the plant.
- (3) If there is more than 1 operator, the permit holder may coordinate the consultation between the operators and the GHG tenure holder.
- (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the GHG tenure holder a copy of the relevant parts of the operator's proposed safety management plan for any relevant operating plant the operator proposes to operate; and
 - (b) the GHG tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- (5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the GHG tenure holder that relate to relevant activities for the plant.
- (6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant permit holder.
- (7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the GHG tenure holder, the operator must—
- (a) give the GHG tenure holder a copy; and

- (b) lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.

- (8) In this section—

remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under the *Petroleum and Gas (Production and Safety) Act 2004*, section 678.

83J Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision

- (1) This section applies if a dispute exists between an operator to which section 83I applies and a GHG tenure holder about the reasonableness of a provision proposed by the GHG tenure holder for the operator's proposed safety management plan.
- (2) The P&G Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which that section applies.

Editor's note—

P&G Act, chapter 12 and schedule 1 (Reviews and appeals)

- (3) In this section—

P&G Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

Note—

For the application of the provisions of the P&G Act about safety management plans to permits, see section 132A.

Division 5 Restriction on power to amend permit if overlapping GHG authority

83K Interests of overlapping GHG authority holder to be considered

If for a permit, there is an overlapping GHG authority that is a GHG tenure, the permit may be amended under section 72 only if the interests of the GHG tenure holder have been considered.

Chapter 5 Access

Part 1 Embargoed land

84 Minister's power to decide embargoed land

- (1) The Minister may, in deciding a tender release area or the area of a geothermal exploration permit, decide that land is embargoed land for the tender release area or area of the permit.
- (2) Embargoed land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.

85 Effect of embargoed land for permit

- (1) Embargoed land for a geothermal exploration permit still forms part of the area of the permit.
- (2) However, while the land is embargoed land for the permit, the rights under sections 35 and 37, can not be exercised in relation to the land.²⁰

86 Release of embargoed land

- (1) The Minister may amend a geothermal exploration permit to release embargoed land in its area if—
 - (a) the permit holder consents; and
 - (b) the Minister considers the circumstances leading to the land becoming embargoed land no longer apply.
- (2) The Minister may amend a tenure condition for the permit that relates to the former embargoed land.

²⁰ Sections 35 (Geothermal exploration) and 37 (Access to permit area)
See also section 86 (Release of embargoed land).

Part 2 Restricted land

87 Requirements for access to restricted land

- (1) A permit holder or an authorised person for the permit may enter restricted land for the permit and carry out geothermal exploration only if—
- (a) either of the following give written consent (*access consent*) to the entry and the carrying out of the activities—
 - (i) each landholder of, or person who has a production interest in, the land for which the entry is sought;
 - (ii) the Land Court, under section 89; and
 - (b) the chief executive has been given a copy of the access consent.

- (2) In this section—

restricted land means any of the following land in the area of the permit—

- (a) land, other than a road reserve under the *Land Act 1994* used only for access, in any of the following—
 - (i) land over which there is a production interest;
 - (ii) a reserve under the *Land Act 1994*;
 - (iii) a State forest or timber reserve under the *Forestry Act 1959*;
- (b) land within 100m laterally of a permanent building used—
 - (i) mainly as accommodation or for business purposes; or
 - (ii) for community, sporting or recreational purposes or as a place of worship;
- (c) land within 50m laterally of any of the following features—
 - (i) a principal stockyard;

- (ii) a water bore from which water is regularly being taken;
- (iii) a dam;
- (iv) another artificial water storage connected to a water supply;
- (v) a cemetery or burial place;
- (vi) a significant Aboriginal area under the *Aboriginal Cultural Heritage Act 2003*;
- (vii) a significant Torres Strait Islander area under the *Torres Strait Islander Cultural Heritage Act 2003*;
- (viii) a place listed on the Queensland heritage register under the *Queensland Heritage Act 1992*.

88 Provisions for access consent

- (1) An access consent must state the land and the period to which it applies.
- (2) The period can not end after the later of the following—
 - (a) the remaining current term of the permit;
 - (b) if an entry authority under section 97 has been given for the land—the end of the period stated in the authority.
- (3) The consent may be given subject to written conditions attached to the consent.

89 Power of Land Court to give or vary access consent

- (1) A permit holder may apply to the Land Court—
 - (a) if a landholder of, or a person who has a production interest in, land in the area of the permit has not given access consent for the land—for the access consent; or
 - (b) to vary an access consent, or conditions of the consent, for land in the area of the permit.
- (2) The Land Court may give or vary the access consent only if satisfied—

- (a) the consent is effectively unobtainable from the landholder or person who has the production interest; or
- (b) the permit holder has used reasonable attempts over a period of at least 3 months to negotiate the access consent and the landholder or person who has the production interest has—
 - (i) unreasonably refused to give the consent; or
 - (ii) imposed, or sought to impose, unreasonable conditions on the consent.
- (3) For subsection (2)(a) access consent is effectively unobtainable if, after making reasonable attempts, the permit holder has not been able to contact the landholder or person who has the production interest.

Part 3 Notice of entry

90 Application of pt 3

- (1) This part applies to a permit holder for an entry under this Act to land in the area of the permit.
- (2) However, this part does not apply if the entry is—
 - (a) merely access along a road reserve under the *Land Act 1994*; or
 - (b) needed to preserve life or property because of an emergency that exists, or may exist.

91 Requirement for notice of entry

- (1) Subject to sections 92 and 93, the permit holder or an authorised person for the permit may enter the land only—
 - (a) if the holder has, at least 5 business days before the entry, given a notice under this part to—
 - (i) each landholder of the land; and
 - (ii) each native title body for the land; and

- (b) the period to which the notice applies has not ended.
- (2) A notice under subsection (1) is a *notice of entry*.

92 Waiver by chief executive of requirement

- (1) The permit holder may apply to the chief executive to waive the requirement under section 91(1) to give a notice of entry for an entry to the land to a particular landholder or native title body.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state efforts made to contact the landholder or native title body; and
 - (c) be accompanied by—
 - (i) a proposed notice of entry for the entry; and
 - (ii) the fee prescribed under a regulation.
- (3) Subject to section 133A, the chief executive must consider and decide whether to waive the requirement.
- (4) However, the chief executive may waive the requirement only if the chief executive considers the landholder or native title body is effectively uncontactable.
- (5) The chief executive may, before waiving the requirement, require the permit holder to carry out stated steps, including, for example, publishing, in a stated way, a notice of the proposed entry.
- (6) If the chief executive decides to refuse to waive the requirement, the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice about the decision.
- (7) A waiver under subsection (3) has effect only for 3 months after it is granted.

93 Waiver by landholder or native title body of requirement

- (1) A landholder or native title body of or for the land may waive the requirement under section 91(1) to be notified by the holder, for any period.
- (2) However, the waiver has effect only if it is written and given to the chief executive.

94 Requirements for notice of entry

- (1) A notice of entry must—
 - (a) describe—
 - (i) the land proposed to be entered, in a way that will allow the recipient to identify it; and
 - (ii) the activities proposed to be carried out on the land; and
 - (b) state—
 - (i) when the activities are proposed to be carried out; and
 - (ii) the period to which the notice of entry applies.
- (2) Also, for the first notice of entry given by the permit holder to a particular landholder or native title body of or for the land, a copy of the following must be attached to the notice—
 - (a) any codes of conduct to which the permit is subject;
 - (b) any environmental authority for an activity that may be carried out under the permit.

95 Expiry of notice of entry

- (1) A notice of entry ceases to have force at the end of the period for which the notice of entry applies.
- (2) This section does not prevent the giving of a subsequent notice of entry for the land at any time.

96 Requirement to give chief executive copy of notice of entry

- (1) It is a mandatory condition of the permit that the holder must, before entering land, give the chief executive a copy of the notice of entry for the entry.
- (2) A contravention of subsection (1) does not invalidate or otherwise affect the entry.

Part 4 Access after permit ceases or permit area reduced**97 Entry authority to comply with requirement after permit ceases or area reduced**

- (1) This section applies if—
 - (a) the holder of a geothermal exploration permit, or the former holder of a former geothermal exploration permit, wishes to enter land (the *primary land*) that is, or is no longer, in the area of the permit or former permit; and
 - (b) the proposed entry is to comply with a requirement under this Act or a condition of the permit or former permit.
- (2) The Minister may give a following person (the *entering person*), an entry authority to enter the primary land or any other land necessary or desirable to cross for access to the primary land—
 - (a) the holder or former holder;
 - (b) a person authorised by the holder or former holder.
- (3) The entry authority—
 - (a) must—
 - (i) be written; and
 - (ii) describe the land the subject of the authority; and

- (iii) state the purpose for which the entry is authorised; and
 - (iv) state a period during which the entering person is authorised to enter the land; and
- (b) may be given subject to conditions.
- (4) The stated period must not be longer than 3 months from when the authority is issued.
- (5) The entering person may enter the land the subject of the authority only if the person has, at least 5 business days before the entry, given each landholder of, or person who has a production interest in, the land a notice of entry for the entry and a copy of the entry authority.
- (6) This Act applies to the entering person for the entry and the carrying out of the stated purpose as if the permit or former permit were still in force in relation to the land being entered.
- (7) In making the entry, the entering person may bring on the land being entered equipment necessary to carry out the stated purpose.

Part 5 Public roads

Division 1 Preliminary

97A Significant projects excluded from div 1

This division does not apply for a geothermal exploration permit that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

97B What is a *notifiable road use*

- (1) A *notifiable road use*, for a geothermal exploration permit, is—

- (a) the use of a public road in the area of the permit for transport relating to a seismic survey or drilling activity; or
 - (b) the use of a public road at more than the threshold rate if the haulage relates to the transportation of equipment, plant or materials used for activities authorised under the permit.
- (2) Subsection (1)(b) applies even if the road is not on land in the area of the permit.
- (3) In this section—
- threshold rate*** means—
- (a) for a State-controlled road—50000t a year; or
 - (b) for another public road—10000t a year.

Division 2 Notifiable road uses

97C Notice of notifiable road use

- (1) It is a condition of a geothermal exploration permit that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.²¹
- (2) The notice must—
- (a) be given—
 - (i) at least 10 business days before the use starts; or
 - (ii) within a shorter period agreed to by the public road authority in writing; and
 - (b) state each of the following—
 - (i) the public road proposed to be used;
 - (ii) the type of haulage under the use;

²¹ See also section 97K (Compensation to be addressed before carrying out notifiable road use).

Example of type of haulage—

- vehicle type
 - material hauled
- (iii) the total weight of material proposed to be hauled;
- (iv) when the use is proposed to start and end;
- (v) the frequency of vehicle movements;
- (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

97D Directions about notifiable road use

- (1) The public road authority for a public road may, by written notice, give a geothermal exploration permit holder a direction (a ***road use direction***) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
- (a) be reasonable; and
 - (b) only be about—
 - (i) preserving the condition of the road; or
 - (ii) the safety of road-users or the public; and
 - (c) be accompanied by, or include, an information notice about the decision to give the direction.

Examples of what a direction may be about—

- when the road may be used
 - the route for the movement of heavy vehicles
 - safety precautions the holder must take
- (3) The direction may also require the holder to—
- (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and
 - (b) consult with the public road authority in carrying out the assessment.

- (4) However—
- (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
 - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the *Environmental Protection Act 1994*, or a similar document under another Act.

97E Obligation to comply with road use directions

It is a condition of a geothermal exploration permit that its holder must comply with any road use direction given to the holder relating to the permit, unless the holder has a reasonable excuse.

Division 3 Compensation for notifiable road uses

97F Liability to compensate public road authority

- (1) The holder of a geothermal exploration permit is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs, or will incur, that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
 - capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that, because of any of the uses, is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's ***compensation liability*** to the public road authority.
- (3) The compensation liability—

- (a) applies whether or not the holder has, under section 97C, given notice of the use; and
- (b) is subject to section 97L; and
- (c) is in addition to, and does not limit or otherwise affect, the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

97G Compensation agreement

- (1) A geothermal exploration permit holder and the public road authority for a public road may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the public road authority relating to the road.
- (2) A compensation agreement may relate to all or part of the liability.
- (3) A compensation agreement must—
 - (a) be signed by, or for, the holder and the public road authority; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) each part of the notifiable road use to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may provide for—
 - (a) monetary or non-monetary compensation; or
 - (b) a process by which it may be amended or enforced.

Example—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the permit, including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

97H Deciding compensation through Land Court

- (1) The public road authority for a public road or a geothermal exploration permit holder may make an application (a *compensation application*) to the Land Court for it to decide the holder's compensation liability to the public road authority relating to the road.
- (2) The Land Court may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- (3) In making the decision, the Land Court may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

97I Criteria for decision

- (1) The criteria the Land Court must consider, in deciding a compensation application, include—
 - (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been, paid from—
 - (i) amounts the geothermal exploration permit holder has paid, or agreed to pay, the public road authority for notifiable road uses; or
 - (ii) fees and charges under the *Local Government Act 1993* paid or payable by the holder to the public road authority; and
 - (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the Land Court must have regard to—
 - (a) any action taken, or proposal by, the holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.

- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

97J Land Court review of compensation

- (1) This section applies if—
- (a) the compensation liability, or future compensation liability, of a geothermal exploration permit holder to a public road authority has been agreed to under a compensation agreement or decided by the Land Court (the *original compensation*); and
 - (b) there has, since the agreement or decision, been a material change in circumstances.

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) The public road authority or holder may apply to the Land Court for it to review the original compensation.
- (3) Sections 97H and 97I apply, with necessary changes, for the review as if the application were a compensation application.
- (4) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the Land Court considers appropriate.
- (5) However, before making the decision, the Land Court must have regard to—
 - (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
 - (c) any change in the matters mentioned in section 97I(1) since the original compensation was agreed or decided.
- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

97K Compensation to be addressed before carrying out notifiable road use

It is a condition of a geothermal exploration permit that its holder must not carry out a notifiable road use on a public road unless—

- (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or
- (b) the public road authority has given written consent to the carrying out of the use; or
- (c) a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.

97L Compensation not affected by change in administration or holder

- (1) An agreement or decision under this part about compensation liability is binding on—
 - (a) the relevant public road authority and geothermal exploration permit holder; and
 - (b) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 97J.

Chapter 6 Damage and compensation

98 Duty to avoid damage

In exercising a power under section 35, 37 or 97, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

99 Notice of damage

- (1) This section applies to a person (the *entering person*) who, under section 35, 37 or 97, enters or purports to enter land.
- (2) If the entering person damages the land or an item on the land, the entering person must, as soon as practicable, give a notice of the damage to—
 - (a) each relevant landholder of, or other person who has a production interest in, the land on which the damage happened; and
 - (b) the owner of the item.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the entering person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (4) The notice must state—
 - (a) particulars of the damage; and
 - (b) that a person who suffered the damage may, under section 100, claim compensation from the relevant permit holder; and
 - (c) if the entering person is not the holder—the holder's name.

100 Right to compensation

- (1) This section applies if a person as follows (a *claimant*) suffers a compensatable effect because of the exercise, or purported exercise, by someone else of a right under 35, 37 or 97—
 - (a) a landholder;
 - (b) a person who has a production interest;
 - (c) the owner of an item.

Example of loss—

inability or interference with the lawful enjoyment or use of the landholder's land

- (2) Compensation is payable to the claimant by the holder of the geothermal exploration permit for which the power was exercised or purportedly exercised.
- (3) However, the compensation is not payable for action taken if the person who took the action was not authorised by the holder to do the activity that resulted in the compensatable effect.
- (4) In this section—
- compensatable effect*** means—
- (a) all or any of the following in relation to the claimant's land—
- (i) deprivation of possession of its surface;
 - (ii) diminution of its value;
 - (iii) diminution of the use made, or that may be made, of the land or any improvement on it;
 - (iv) severance of any part of the land from other parts of the land or from other land that the claimant owns; and
- (b) any cost or loss arising from the carrying out of activities under the geothermal exploration permit or the exercise of access rights under this Act on the claimant's land or of the item.

geothermal exploration permit includes a former geothermal exploration permit.

101 How compensation may be claimed

- (1) Compensation under section 100 may be claimed and ordered in a proceeding brought by the claimant in the Land Court.
- (2) The Land Court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

Chapter 7 Miscellaneous provisions

Part 1 Directions

102 Direction to ease landholder concerns

- (1) This section applies if the Minister reasonably believes that, to ease a valid concern of a landholder of land in the area of a geothermal exploration permit, the permit holder ought reasonably to take action, or cease taking action.
- (2) The Minister may, by a notice, direct the permit holder to, within a stated reasonable period, take the action, or cease taking the action.
- (3) However, before giving the notice, the Minister must comply with chapter 4, part 4, division 2, subdivision 2—
 - (a) as if the giving of the direction were a proposed action notice; and
 - (b) as if the decision on the proposed action is a decision whether to give the direction; and
 - (c) with other necessary changes.

103 Direction to close exploration bore

- (1) Subject to subsection (3), the Minister may direct the responsible person for an exploration bore (the *subject bore*) to close it, if the Minister considers that the subject bore—
 - (a) is dangerous to persons, or may damage property; or
 - (b) is adversely affecting any of the following—
 - (i) another exploration bore or another type of bore;
 - (ii) an aquifer or mineral or petroleum deposit;
 - (iii) a natural spring; or
 - (c) is causing a private or public nuisance at common law; or
 - (d) has been abandoned or discontinued.

- (2) The direction may require the subject bore to be closed—
 - (a) in a stated way or to a stated extent; and
 - (b) either permanently or for a stated period.
- (3) Before giving the notice, the Minister must comply with chapter 4, part 4, division 2, subdivision 2—
 - (a) as if the giving of the direction were a proposed action notice; and
 - (b) as if the decision on the proposed action is a decision whether to give the direction; and
 - (c) with other necessary changes.
- (4) Generally, for subsection (1), the responsible person for the subject bore is the holder, or former holder, of the relevant geothermal exploration permit.
- (5) However, if under chapter 7, part 5, control of and responsibility for the subject bore has been transferred to someone else, the other person is the responsible person for the subject bore.
- (6) Also, if the subject bore has been re-opened by anyone, that person is the responsible person for the bore.

104 Compliance with direction to close exploration bore

A person to whom a direction under section 103 has been given must comply with the direction.

Maximum penalty—1200 penalty units.²²

105 Direction to survey

- (1) The Minister may, by a notice, direct a permit holder to survey the location of a stated bore or other activity carried out by the holder in the area of the permit.
- (2) The holder must cause the survey to be carried out by a cadastral surveyor under the *Surveyors Act 2003*.

²² See also section 51 (Compliance with directions).

- (3) The holder must pay any costs incurred in complying with the notice.

106 Direction to give statement of financial and technical resources

- (1) This section applies if the chief executive reasonably believes a change in circumstances relating to a permit holder may affect the holder's financial or technical ability to carry out work required under the work program or later work program for the permit.

Examples of a change in circumstances—

- 1 A notice of significant change in membership given under section 44.
 - 2 The entering into of an agreement to transfer, or application for approval to transfer, the permit.
 - 3 Any holder of the permit, a holding company or a person who, under the Corporations Act, has a substantial holding in any holder of the permit, becoming an externally-administered body corporate or an insolvent under administration.
 - 4 The taking of action by or against a person mentioned in example 3 that may result in the person becoming an externally-administered body corporate or an insolvent under administration.
 - 5 A proposed significant increase in activities to be carried out under the permit.
- (2) The chief executive may, by a notice, direct the permit holder to give the chief executive a revised statement of the holder's financial or technical resources within a stated reasonable period.

107 Direction to give samples

- (1) The chief executive may, by a notice, direct a permit holder to give the chief executive samples of materials obtained in the carrying out of geothermal exploration in the area of the permit, in the way and at the times or intervals required by the chief executive.
- (2) A sample given to the chief executive under the direction is the property of the State.

108 Direction to give additional information for requirement under Act

- (1) This section applies if—
 - (a) a permit holder is required under this Act to give the Minister or chief executive (the *official*) a notice, a document or information; and
 - (b) the person gives the notice, document or information.
- (2) The official may, by a notice, require the person to give, within the reasonable time stated in the notice, further information or documents about the matter for which the notice, document or information was given.

Part 2 Appeals**109 Who may appeal**

A person who has been given, or is entitled to be given, an information notice about a decision of the Minister, chief executive or a public road authority (the *decider*) may appeal against the decision to the Land Court.

110 Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) if the person has been given an information notice about the decision—the day the person is given the notice; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may, at any time within the 20 business days, extend the period for making an appeal.

111 Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the Land Court.
- (2) A copy of the notice must be served on the decider.

112 Stay of operation of decision

- (1) The Land Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be given on the conditions the Land Court considers appropriate; and
 - (b) operates for the period fixed by the Land Court; and
 - (c) may be amended or cancelled by the Land Court.
- (3) The period of a stay under this section must not extend past the time when the Land Court decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if the decision is stayed under this section.

113 Hearing procedures

- (1) In deciding an appeal, the Land Court—
 - (a) has the same powers as the decider; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing, unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
 - (a) in accordance with the rules for the Land Court; or
 - (b) in the absence of relevant rules, as directed by the Land Court.
- (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

114 Land Court's powers on appeal

- (1) In deciding an appeal, the Land Court may—
 - (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the decider with the directions the Land Court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is, for this Act, other than this part, taken to be the decision of the decider.

Part 3 Proceedings**Division 1 Offence proceedings****115 Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

116 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

117 Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against section 135.
- (2) It is enough for the complaint starting the proceeding to state the relevant document or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.
- (3) In the proceeding, evidence that the document or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

Division 2 Evidentiary provisions for proceedings**118 Application of div 2**

This division applies to a proceeding under or in relation to this Act.

119 Appointments and authority

The power of the Minister or the chief executive to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

120 Signatures

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

121 Other evidentiary aids

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is a thing as follows given, issued, kept or made under this Act—
 - (i) an instrument for a geothermal exploration permit;

- (ii) a direction, notice or requirement;
- (iii) the geothermal register;
- (iv) another record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that, on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (e) on a stated day, or during a stated period, a geothermal exploration permit—
 - (i) was, or was not, in force; or
 - (ii) was, or was not, subject to a stated condition; or
 - (iii) was, or was not, cancelled;
- (f) a stated amount is payable under this Act by a stated person and has not been paid.

Part 4 The geothermal register

122 Chief executive must keep register

- (1) The chief executive must keep a register for geothermal exploration permits (the *geothermal register*).
- (2) The geothermal register must—
 - (a) contain—
 - (i) the instrument for each geothermal exploration permit; and
 - (ii) each access consent given for each geothermal exploration permit; and

- (iii) any waiver, under section 92 or 93, of a notice of entry; and
 - (b) record the following information for each geothermal exploration permit—
 - (i) any embargoed land for the permit;
 - (ii) the permit holder's address for service;
 - (iii) the person to whom service of notices under this Act on the permit holder may be given; and
 - (c) include any other document or information prescribed under a regulation.
- (3) The geothermal register may contain other information the chief executive considers appropriate.
- (4) The geothermal register may take any form approved by the chief executive.

123 Maintaining register

- (1) The chief executive must maintain the geothermal register.
- (2) The chief executive may copy, correct or replace any item in the geothermal register.
- (3) If under this Act there is a change relating to a document or information kept in the geothermal register the chief executive must—
 - (a) amend the register to reflect the change; and
 - (b) record in the register when the information was amended.

124 Access to register

- (1) The chief executive must—
 - (a) keep the geothermal register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
 - (b) allow a person, on payment of the fee prescribed under a regulation, to search and take extracts from the register; and

- (c) give a person who asks for it a copy of all or part of a document or information held in the register, on payment of the fee prescribed under a regulation.
- (2) However, subsection (1) does not apply to any part of the geothermal register that is exempt matter under the *Freedom of Information Act 1992*.
- (3) This section is subject to section 124A.

124A Arrangements with other departments for copies from register

- (1) The chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of, particulars recorded in the geothermal register, without payment of the fees prescribed under section 124.
- (2) However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the search or the copy will not be—
 - (a) used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or
 - (b) included in another database of information, in any form, other than with chief executive's approval.

124B Supply of statistical data from register

- (1) The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the geothermal register.
- (2) If the chief executive supplies statistical data under subsection (1)—
 - (a) the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and
 - (b) without limiting paragraph (a), the agreement may also state—

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- (i) how the fees and charges are to be calculated; and
 - (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.
- (4) An agreement for the supply of statistical data must include—
 - (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement, if the chief executive is satisfied, on reasonable grounds, that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and
 - (b) a provision allowing the chief executive to prohibit disclosure, or to limit distribution or use, of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under a search of the geothermal register permitted under this Act.
- (6) The chief executive must exclude permit particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.
- (8) In this section—

permit particulars means particulars from any instrument or information kept by the chief executive that may allow a person to identify a geothermal exploration permit to which the instrument or information relates.

personal information means a particular from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

Part 5 Transfers in relation to bores

125 What is the *transfer* of a bore

A *transfer* of a bore is a transfer of—

- (a) control of, and responsibility for, the bore; and
- (b) ownership of any works constructed in connection with the bore.²³

126 Transfer of bore to permit holder

- (1) A person other than the State²⁴ (the *transferor*) who, under another Act, has control of, or may lawfully take water from, a bore in the area of a geothermal exploration permit, may apply to the Minister for approval to transfer the bore to the permit holder for use as an exploration bore.
- (2) The transfer has no effect unless the approval is given.
- (3) The application must be—
 - (a) in the approved form; and
 - (b) made by the transferor and each proposed transferee; and
 - (c) accompanied by the fee prescribed under a regulation.
- (4) Subject to section 133A, the Minister must decide whether to grant or refuse the application.
- (6) If the Minister decides to refuse the application, the chief executive must give the applicants an information notice about the decision.

127 Transfer of exploration bore from permit holder to landholder or mining interest holder

- (1) A permit holder may apply to the Minister for approval to transfer an exploration bore in the area of the permit to—

²³ See section 35(3) (Geothermal exploration).

²⁴ For transfers from the State, see the *Petroleum and Gas (Production and Safety) Act 2004*, section 294 (Responsibility for well or bore after decommissioning).

- (a) a landholder of the land in which the exploration bore is located; or
- (b) a person who has a mining interest in that land.
- (2) The transfer has no effect unless the approval is given.
- (3) However, the application may be made only if—
 - (a) the construction of the exploration bore or its conversion for the taking of water was carried out by an individual who holds a water bore driller's licence under the *Water Act 2000*; and
 - (b) for a proposed transferee who is a landholder required under the *Water Act 2000* to hold a water licence under that Act to take or interfere with water from the exploration bore—the proposed transferee holds that licence.
- (4) The application must be—
 - (a) in the approved form; and
 - (b) made by the permit holder and each proposed transferee; and
 - (c) accompanied by the fee prescribed under a regulation.
- (5) Subject to section 133A, the Minister must decide whether to grant or refuse the application.
- (6) If the Minister decides to refuse the application, the chief executive must give the applicants an information notice about the decision.

128 Transfer of exploration bores from permit holder or former permit holder to the State

- (1) This section applies to exploration bores in the area of a geothermal exploration permit or former geothermal exploration permit.
- (2) However, this section only applies to any of the exploration bores that have not been transferred under section 127.
- (3) The permit holder or former permit holder may apply to the Minister for approval to transfer the exploration bores to the State.

- (4) The transfer has no effect unless the approval is given.
- (5) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (6) Subject to section 133A, the Minister must decide whether to grant or refuse the application.
- (7) Without limiting subsection (6), the Minister may refuse the application if the exploration bore has not been decommissioned in a way prescribed under a regulation.
- (8) If the Minister decides to refuse the application, the chief executive must give the applicant an information notice about the decision.

129 Effect of transfer to the State

- (1) This section applies if a transfer to the State of an exploration bore has been agreed to under section 128 and has taken effect.
- (2) Any obligation that the person who transferred the exploration bore to the State has under this Act or another law in relation to the exploration bore ends.
- (3) However, subsection (2) does not apply to the *Environmental Protection Act 1994*.
- (4) Subsection (2) applies despite—
 - (a) the exploration bore being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land.
- (5) The State can only transfer the exploration bore to an eligible transferee who has agreed in writing to the transfer.
- (6) The transfer from the State and the use of the exploration bore by the eligible transferee is subject to this Act any other relevant Act or law.
- (7) In this section—

eligible transferee means any of the following—

- (a) a landholder of the land in which the exploration bore is located;
- (b) a person who has a mining interest in that land;
- (c) a holder of a geothermal exploration permit the area of which includes that land.

130 Notice to chief executive (water) of transfers to landholder

- (1) If—
- (a) a transfer of a bore is approved under section 127 or 129; and
 - (b) the proposed transferee is a landholder who proposes to take water from the bore;

the chief executive must give the chief executive (water) a notice of the transfer.

- (2) A failure to comply with subsection (1) does not invalidate or otherwise affect the transfer.
- (3) In this section—

chief executive (water) means the chief executive of the department administering the *Water Act 2000*.

Part 6 Delegations

131 Delegation by Minister

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

132 Delegation by chief executive

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer or employee.

Part 7**Other miscellaneous provisions****132A Application of petroleum safety provisions to geothermal exploration**

- (1) The petroleum safety provisions apply to a facility or plant used for geothermal exploration—
 - (a) as if the facility or plant were an operating plant under the provisions; and
 - (b) as if a reference in the provisions to petroleum or fuel gas were a reference to geothermal energy; and
 - (c) as if a reference in the provisions to a petroleum authority were a reference to a geothermal exploration permit; and
 - (d) as if a reference in the provisions to the *Petroleum and Gas (Production and Safety) Act 2004* were a reference to this Act; and
 - (e) with other necessary changes.

- (2) In this section—

petroleum safety provisions means the following provisions of the *Petroleum and Gas (Production and Safety) Act 2004*—

- (a) chapter 9, other than part 6;
- (b) chapter 10, other than part 2, division 4;
- (c) sections 811, 812 and 814; and
- (d) schedule 2, to the extent it contains words mentioned in a petroleum safety provision under paragraph (a), (b) or (c).

133 Giving of documents or samples to the Minister or chief executive

If, under this Act, a document or sample must be made or given to the Minister or chief executive, it must be lodged at the location prescribed under a regulation.

133A Dealing with application that is not a properly made application

- (1) This section applies to an application that is not a properly made application.
- (2) The Minister or chief executive who would, apart from this section, be required to decide the application, must not accept the application.
- (3) The chief executive must, as soon as practicable after the application is received, give the applicant a written notice—
 - (a) stating that—
 - (i) the application is not a properly made application; and
 - (ii) under this Act, the application can not be accepted; and
 - (b) identifying the relevant provision of this Act that the application does not comply with.
- (4) The notice must be accompanied by a refund of any application fee paid by the applicant, less an amount prescribed under a regulation for checking whether the application is a properly made application.

134 Additional information may be required about application

- (1) This section applies if the Minister or chief executive (the *official*) is deciding, or is required to decide, an application under this Act.
- (2) The official may, by a notice, require the applicant to give the person within a stated reasonable period, additional information about, or a document relevant to, the application.
- (3) If the applicant does not give the additional information or document by the stated day, the official may refuse the application.
- (4) In this section—
application includes tender.

135 False or misleading information

A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

136 Recovery of unpaid amounts

If a provision of this Act requires a permit holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

136A Protection from liability for particular persons

- (1) A person as follows (a *designated person*) does not incur civil liability for an act done or omission made honestly and without negligence under this Act—
 - (a) the Minister;
 - (b) a public service officer or public service employee;
 - (c) a person if—
 - (i) the person has, under section 12A, been authorised to carry out an activity; and
 - (ii) the act or omission happened while the person was acting within the scope of that authority;
 - (d) a permit holder given a direction under this Act who is complying with the direction.
- (2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

138 Approved forms

The chief executive may approve forms for use under this Act.

138A Ministerial directions about the giving of information

- (1) The Minister may, in the way the Minister considers appropriate, publish directions about the giving of information, including the giving of additional information, to the Minister or the chief executive for the purposes of this Act.
- (2) A direction published under subsection (1) must state a period, that is not less than 20 business days, within which the information must be given.
- (3) Without limiting subsection (1), a direction may state how the information must be given if this Act does not already so provide.

Examples of how information may be required to be given—

- by an approved form or a notice
 - by progressive reporting under a work program or later work program
 - by a volumetric plan of survey
 - by a geological survey
 - by a statement, supporting an application for a geothermal exploration permit, about the financial resources or technical advice available to the applicant or the applicant's previous compliance with a condition or provision of a geothermal exploration permit
- (4) If—
 - (a) a person is required or permitted to give the Minister or the chief executive (the *official*) information for a particular purpose relating to this Act; and
 - (b) this Act does not state how the information may or must be given to the official for the purpose; and
 - (c) the person gives the official the information in the way required or permitted under the directions;

the person is taken to have given the official the information for the purpose.

- (5) Unless a direction states a particular office of the department where the information must be given, the information must be given at the office of the chief executive.
- (6) The chief executive must—
 - (a) keep—
 - (i) a copy of each direction; and
 - (ii) a record (by whatever name called) of each direction, including the dates when each direction was published and superseded; and
 - (b) make each direction and the record available to the public in the way the chief executive considers appropriate.
- (7) Without limiting subsection (6), the chief executive must ensure an up-to-date copy of each direction and the record is available to be read free of charge at each office of the department and on the department's website.

139 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may be made about the following—
 - (a) fees payable under this Act;
 - (b) how information and materials must be given under this Act;
 - (c) imposing a penalty of no more than 20 penalty units for a contravention of a provision of a regulation.

Schedule Dictionary

section 9

access consent see section 87(1)(a).

affected person, for land, see section 17(3)(d).

agreed specific objectives, for a geothermal exploration permit, means the specific objectives agreed under section 31(d) or 52I(d).

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved form means the form approved by the chief executive, under section 138.

area—

- (a) of a geothermal exploration permit, means the land subject to the permit, as recorded in the instrument for the permit kept in the geothermal register; or
- (b) of a GHG authority, means the land to which it is subject as recorded in the GHG register under the GHG storage Act.

authorised means authorised in writing.

authorised activity—

- (a) for a geothermal exploration permit, means an activity that its holder is under this Act and the permit, entitled to carry out in relation to the permit; or
- (b) for a GHG authority, means an activity that its holder is under the GHG storage Act and the GHG authority, entitled to carry out in relation to the GHG authority.

authorised person, for a geothermal exploration permit, see section 36(1).

blocks see section 10.

call for tenders see section 17(1).

Schedule (continued)

closing time, for a call for tenders, means the day and time stated in the call by which tenders in response to it must be made.

company means a company registered under the Corporations Act.

compensation agreement, see section 97G(1).

compensation application, see section 97H(1).

compensation liability, for a geothermal exploration permit holder, see section 97F(2).

complete suspension see section 75(2)(a).

conditions, for a geothermal exploration permit, means its mandatory conditions and tenure conditions.

decider, for an appeal, see section 109.

eligible person, to hold a geothermal exploration permit, means—

- (a) an adult who is not an insolvent under administration; or
- (b) a company or a registered body under the Corporations Act, other than a company or a registered body that is an externally-administered corporation under that Act; or
- (c) a government owned corporation; or
- (d) the State; or
- (e) a local government.

embargoed land means land that is embargoed land under section 84.

environmental authority means an environmental authority under the *Environmental Protection Act 1994*.

excluded land, for a tender release area, see section 18(2).

exploration bore means a bore—

- (a) drilled or reopened for geothermal exploration under a geothermal exploration permit or former geothermal exploration permit; or

Schedule (continued)

- (b) to which control of and responsibility for has, under chapter 7, part 5, been transferred to a permit holder.

externally-administered body corporate means an externally-administered body corporate under the Corporations Act.

geothermal energy means heat energy derived from natural geological processes.

geothermal exploration means—

- (a) exploring for, and quantifying, geothermal material; and
 (b) carrying out investigations and other activities associated with exploring for, or quantifying, geothermal material.

geothermal exploration permit—

- 1 A *geothermal exploration permit* is a form of tenure, issued under chapter 3, and as amended from time to time under this Act, that is still in force.
- 2 A reference to a geothermal exploration permit includes a reference to—
 - (a) the mandatory conditions; and
 - (b) any tenure conditions of the permit; and
 - (c) the area and any other provision of the permit.²⁵

geothermal material is geological strata and associated material in which elevated levels of geothermal energy exist.

Examples of associated material—

groundwater, other fluids and gases that may fill fractures or voids in geological strata

geothermal register see section 122(1).

geothermal resource means a quantification of the amount of geothermal energy contained in an identified volume of geothermal material.

25 For the mandatory conditions, see chapter 4, part 2 (Mandatory conditions).
 For tenure conditions, see section 29 (Power to impose conditions).

Schedule (continued)

GHG means greenhouse gas.

GHG authority see the GHG storage Act, section 18(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG storage Act see section 7A.

GHG tenure see the GHG storage Act, section 18(2).

holding company, of a corporation, means any body corporate that, under the Corporations Act, is a holding company of the corporation.

information notice, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) the right of appeal under this Act against the decision;
- (c) the period in which any appeal under this Act must be started;
- (d) how the right must be exercised;
- (e) that a stay of the decision the subject of an appeal may be applied for under this Act.

insolvent under administration means an insolvent under administration under the Corporations Act.

instrument, for a geothermal exploration permit, means the tenure instrument for the permit created under section 32(3)(a) and kept in the geothermal register.

instrument, for a permit, means the instrument created under section 32(3)(a) for the permit, as amended under section 123(3) from time to time.

land includes any of the following—

- (a) land within the beds and banks of all streams, watercourses and inundated land;
- (b) land beneath the internal waters of Queensland;

Schedule (continued)

- (c) the sea bed and subsoil to which this Act applies;
- (d) waters in, on and above land.²⁶

landholder, of land in the area of a geothermal exploration permit, means any of the following—

- (a) a person who is an owner of, or has the right to occupy, the land under any Act or law other than under—
 - (i) the *Mineral Resources Act 1989*; or
 - (ii) the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*;
- (b) if, under an Act, a department, local government or public authority is charged with the control of the land—the department, local government or public authority;
- (c) a person who, under the *Native Title Act 1993* (Cwlth), section 224, is a native title holder in relation to the land.

limited suspension see section 75(2)(b).

mandatory conditions see section 40(2).

mining interest, in land, means—

- (a) a mining tenement under the *Mineral Resources Act 1989*; or
- (b) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
- (c) a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*.

native title body, for land, means a representative body under the *Native Title Act 1993* (Cwlth) that relates to the land.

notice means a written notice.

notice of entry see section 91(2).

notifiable road use, see section 97B.

²⁶ See, however, section 5 (Application of Act to land covered by water).

Schedule (continued)

obstruct includes unlawfully assault, hinder, interfere with, resist, and attempt or threaten to hinder, interfere with or resist.

original term, for chapter 4, part 2A, see section 52A(2)(a).

overlapping GHG authority, for a geothermal exploration permit, see section 83B.

permit means a geothermal exploration permit.

permit holder means the holder of a geothermal exploration permit.

prescribed security means security in the amount and form prescribed under section 31(b), subject to any increase for the permit from time to time under section 52O.

production interest, in land, means—

- (a) a mining claim or mining lease under the *Mineral Resources Act 1989*; or
- (b) a petroleum lease under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (c) pipeline land for a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

properly made application means an application that complies with—

- (a) for an extension application—sections 52A and 52B; or
- (b) for an application under section 57(1)(a)—section 57(2)(a) and (b); or
- (c) for an application under section 57(1)(b)—sections 57(2) and 63(1); or
- (d) for an application under section 57(1)(c)—sections 57(2) and 61(1); or
- (e) for an application under section 57(1)(d)—sections 57(2) and 63(1); or
- (f) for an application under section 57(1)(e)—sections 57(2) and 68(1) and (2); or

Schedule (continued)

- (g) for an application under section 92—section 92(2); or
- (h) for an application under section 126—section 126(3); or
- (i) for an application under section 127—section 127(4); or
- (j) for section 128—section 128(5).

properly made submissions see section 25(4).

proposed action see section 78(1)(a).

proposed action notice see section 78(1).

public road means an area of land that—

- (a) is open to, or used by, the public; and
- (b) is developed for, or has as one of its main uses—
 - (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1991* is administered; or
- (b) for another public road—the local government having the control of the road.

reasonably believes means to believe on grounds that are reasonable in all the circumstances.

relevant departmental office, for an application or document that is required to be made, given or lodged under this Act, means—

- (a) the office of the department at which the relevant approved form provides that the application or document must be made, given or lodged; or

Schedule (continued)

- (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department as stated in a gazette notice by the chief executive; or
- (c) if paragraph (b) applies and no office is gazetted as mentioned in paragraph (b)—the office of the chief executive.

renewal application see section 52A(1).

renewed term, for chapter 4, part 2A, see section 52C(2)(a).

required information, for a geothermal exploration permit, is information (in any form) about authorised activities carried out under the permit that the holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) a report given under section 49.

residual sub-block see section 18(3).

road use direction see section 97D.

security, for a geothermal exploration permit, means security for the permit given under section 31(b), as increased from time to time under section 52O or replenished from time to time under section 55.

significant change, in the membership of a company, means a change in its membership of 10% or more during any 12 month period.

State-controlled road see *Transport Infrastructure Act 1994*, schedule 6.

sub-blocks see section 10.

submission period see section 78(1)(f).

submissions means written submissions.

suitability criteria see section 28(4).

tender release area see section 17(2).

Schedule (continued)

tenure conditions, for a geothermal exploration permit, means conditions of the permit imposed under section 29(1) or 52F(1).

transfer, of a bore, see section 125.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 February 2009. Future amendments of the Geothermal Exploration Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	2004 Act No. 25 (amd 2004 Act No. 26; 2005 Act No. 8) 2005 Act No. 8	25 March 2005	
1A	2005 Act No. 68	6 February 2006	
1B	2007 Act No. 39	21 September 2007	
1C	2007 Act No. 46	17 March 2008	
1D	2007 Act No. 50	31 March 2008	
1E	2008 Act No. 34	1 July 2008	R1E withdrawn, see R2
2	—	1 July 2008	
2A	2009 Act No. 3	23 February 2009	

5 List of legislation

Geothermal Exploration Act 2004 No. 12

date of assent 31 May 2004

ss 1–2 commenced on date of assent

s 14 never proclaimed into force and om 2005 No. 8 s 59

remaining provisions commenced 25 March 2005 (2005 SL No. 43)

amending legislation—

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ss 990–994 (prev ss 930–934) (this Act is amended, see amending legislation below)

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

amending legislation—

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1–2(1), 258, 69(2) sch (amends 2004 No. 25 above)

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 13 October 2004 (see s 2(1))

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 9 (amends 2004 No. 25 above)

date of assent 18 March 2005

commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 6

date of assent 18 March 2005
 commenced on date of assent

Natural Resources and Other Legislation Amendment Act 2005 No. 68 pt 1, s 150 sch

date of assent 8 December 2005
 ss 1–2 commenced on date of assent
 remaining provisions commenced 6 February 2006 (2006 SL No. 6)

Land Court and Other Legislation Amendment Act 2007 No. 39 ss 1–2, 41 sch

date of assent 29 August 2007
 ss 1–2 commenced on date of assent
 remaining provisions commenced 21 September 2007 (2007 SL No. 236)

Mining and Other Legislation Amendment Act 2007 No. 46 pts 1, 5

date of assent 25 October 2007
 ss 1–2 commenced on date of assent
 remaining provisions commenced 17 March 2008 (2007 SL No. 313)

Queensland Heritage and Other Legislation Amendment Act 2007 No. 50 ss 1–2, 55 sch

date of assent 25 October 2007
 ss 1–2 commenced on date of assent
 remaining provisions commenced 31 March 2008 (2008 SL No. 75)

Water Supply (Safety and Reliability) Act 2008 No. 34 ss 1, 2(2), 751 sch 2

date of assent 21 May 2008
 ss 1–2, 751 commenced on date of assent
 remaining provisions commenced 1 July 2008 (2008 SL No. 202)

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 11

date of assent 23 February 2009
 commenced on date of assent

6 List of annotations

Relationship with petroleum legislation

s 7 sub 2004 No. 25 s 991 (amd 2004 No. 26 s 69(2) sch)

Relationship with Greenhouse Gas Storage Act 2009

s 7A ins 2009 No. 3 s 486

Graticulation of earth’s surface into “blocks” and “sub-blocks”

s 10 amd 2005 No. 8 s 58

Geothermal energy reservation in land grants

s 12 amd 2009 No. 3 s 487

Provision for entry by State to carry out geothermal energy activity

s 12A ins 2009 No. 3 s 488

Prohibition on geothermal exploration without permit

s 13 amd 2009 No. 3 s 489

Prohibition on geothermal extraction

s 14 om 2005 No. 8 s 59

Deciding whether to grant permit

s 26 amd 2007 No. 46 s 54

Power to impose conditions

prov hdg amd 2007 No. 46 s 55(1)

s 29 amd 2007 No. 46 s 55(2)–(3)

Term of permit

s 33 amd 2005 No. 8 s 60

Taking, interfering with and using water for geothermal exploration

s 39 amd 2005 No. 8 s 61

Taking samples in geothermal exploration

s 39A ins 2005 No. 8 s 62

Ownership of samples taken in geothermal exploration

s 39B ins 2005 No. 8 s 62

Public release of required information

s 49A ins 2005 No. 8 s 63

Chief executive may use required information

s 49B ins 2005 No. 8 s 63

Notice of significant discovery

s 50 amd 2004 No. 25 s 992

PART 2A—RENEWAL OF TERM OF PERMIT

pt hdg ins 2007 No. 46 s 56

Conditions for making application to renew the term of a permit

s 52A ins 2007 No. 46 s 56

Requirements for making application

s 52B ins 2007 No. 46 s 56

Continuing effect of permit for extension application

s 52C ins 2007 No. 46 s 56

General provisions for deciding application

s 52D ins 2007 No. 46 s 56

Requirement to obtain relevant authority, licence or approval

s 52E ins 2007 No. 46 s 56

Power to impose conditions

s 52F ins 2007 No. 46 s 56

Area of permit for renewed term

s 52G ins 2007 No. 46 s 56

Renewed term

s 52H ins 2007 No. 46 s 56

Restrictions on making extension

s 52I ins 2007 No. 46 s 56

Withdrawal of application if tenure conditions and term not agreed to

s 52J ins 2007 No. 46 s 56

Making extension of permit

s 52K ins 2007 No. 46 s 56

Information notice about refusal

s 52L ins 2007 No. 46 s 56

When refusal takes effect

s 52M ins 2007 No. 46 s 56

PART 3—GENERAL PROVISIONS ABOUT SECURITY

pt 3 hdg sub 2007 No. 46 s 56

Continuance of security for renewal of term

s 52N ins 2007 No. 46 s 56

Minister's power to require additional security

s 52O ins 2007 No. 46 s 56

Power to use security

s 53 amd 2005 No. 8 s 64

Replenishment of security

s 55 amd 2005 No. 8 s 65; 2007 No. 46 s 57

Replacement of securitys 55A ins 2005 No. 8 s 66
amd 2007 No. 46 s 58**Security not affected by change in permit holder**

s 55B ins 2005 No. 8 s 66

Retention of security

s 56 amd 2005 No. 8 s 67

Deciding application

s 58 amd 2005 No. 8 s 68

Making application

s 61 amd 2005 No. 8 s 69

Making application

s 63 amd 2005 No. 8 s 70

Making application

s 65 amd 2005 No. 8 s 71

Power of and procedure for immediate suspension

s 82 amd 2005 No. 8 s 72

PART 5—PROVISIONS FOR GHG AUTHORITIES

pt hdg ins 2009 No. 3 s 490

Division 1—Preliminary**div 1** (ss 83A–83C) ins 2009 No. 3 s 490**Division 2—Restrictions on authorised activities****div 2** (ss 83D–83F) ins 2009 No. 3 s 490**Division 3—Additional conditions****div 3** (ss 83G–83H) ins 2009 No. 3 s 490**Division 4—Additional provisions for safety management plans****div 4** (ss 83I–83J) ins 2009 No. 3 s 490**Division 5—Restriction on power to amend permit if overlapping GHG authority****div 5** (s 83K) ins 2009 No. 3 s 490**Requirements for access to restricted land****s 87** amd 2007 No. 39 s 41 sch; 2007 No. 50 sch**Power of Land Court to give or vary access consent****prov hdg** amd 2007 No. 39 s 41 sch**s 89** amd 2007 No. 39 s 41 sch**Waiver by chief executive of requirement****s 92** amd 2005 No. 8 s 73**PART 5—PUBLIC ROADS****pt hdg** ins 2005 No. 8 s 74**Division 1—Preliminary****div 1** (ss 97A–97B) ins 2005 No. 8 s 74**Division 2—Notifiable road uses****div 2** (ss 97C–97E) ins 2005 No. 8 s 74**Division 3—Compensation for notifiable road uses****div hdg** ins 2005 No. 8 s 74**Liability to compensate public road authority****s 97F** ins 2005 No. 8 s 74**Compensation agreement****s 97G** ins 2005 No. 8 s 74**Deciding compensation through Land Court****prov hdg** amd 2007 No. 39 s 41 sch**s 97H** ins 2005 No. 8 s 74

amd 2007 No. 39 s 41 sch

Criteria for decision**s 97I** ins 2005 No. 8 s 74

amd 2007 No. 39 s 41 sch

Land Court review of compensation**prov hdg** amd 2007 No. 39 s 41 sch**s 97J** ins 2005 No. 8 s 74

amd 2007 No. 39 s 41 sch

Compensation to be addressed before carrying out notifiable road use

s 97K ins 2005 No. 8 s 74

Compensation not affected by change in administration or holder

s 97L ins 2005 No. 8 s 74

How compensation may be claimed

s 101 amd 2007 No. 39 s 41 sch

Direction to give statement of financial and technical resources

s 106 amd 2007 No. 46 s 59

Direction to give samples

s 107 amd 2005 No. 8 s 75

Direction to give additional information for requirement under Act

s 108 amd 2005 No. 8 s 76

Who may appeal

s 109 amd 2005 No. 8 s 77; 2007 No. 39 s 41 sch

Period to appeal

s 110 amd 2007 No. 39 s 41 sch

Starting appeal

s 111 amd 2007 No. 39 s 41 sch

Stay of operation of decision

s 112 amd 2007 No. 39 s 41 sch

Hearing procedures

s 113 amd 2007 No. 39 s 41 sch

Land Court's powers on appeal

prov hdg amd 2007 No. 39 s 41 sch

s 114 amd 2007 No. 39 s 41 sch

Access to register

s 124 amd 2007 No. 46 s 60

Arrangements with other departments for copies from register

s 124A ins 2007 No. 46 s 61

Supply of statistical data from register

s 124B ins 2007 No. 46 s 61

Transfer of bore to permit holder

s 126 amd 2004 No. 25 s 993; 2005 No. 8 s 78

Transfer of exploration bore from permit holder to landholder or mining interest holder

s 127 amd 2005 No. 8 s 79

Transfer of exploration bores from permit holder or former permit holder to the State

s 128 amd 2005 No. 8 s 80

Notice to chief executive (water) of transfers to landholder

prov hdg amd 2008 No. 34 s 751 sch 2

s 130 amd 2008 No. 34 s 751 sch 2

Application of petroleum safety provisions to geothermal exploration

s 132A ins 2004 No. 25 s 993A (amd 2004 No. 26 s 258) (amd 2005 No. 8 s 90)

Dealing with application that is not a properly made application

s 133A ins 2005 No. 8 s 81

Protection from liability for particular persons

s 136A ins 2009 No. 3 s 491

Tribunal may award costs

s 137 om 2007 No. 39 s 41 sch

Ministerial directions about the giving of information

s 138A ins 2007 No. 46 s 62

Regulation-making power

s 139 amd 2005 No. 8 s 82

CHAPTER 8—AMENDMENT OF OTHER ACTS

ch 8 (ss 140–164) om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE—DICTIONARY

def “**agreed specific objectives**” amd 2007 No. 46 s 63(3)

def “**area**” sub 2009 No. 3 s 492

def “**authorised activity**” ins 2009 No. 3 s 492(2)

def “**compensation agreement**” ins 2005 No. 8 s 84

def “**compensation application**” ins 2005 No. 8 s 84

def “**compensation liability**” ins 2005 No. 8 s 84

def “**eligible person**” ins 2007 No. 46 s 63(2)

def “**geothermal exploration permit**” amd 2007 No. 46 s 63(4)

def “**GHG**” ins 2009 No. 3 s 492(2)

def “**GHG authority**” ins 2009 No. 3 s 492(2)

def “**GHG lease**” ins 2009 No. 3 s 492(2)

def “**GHG storage Act**” ins 2009 No. 3 s 492(2)

def “**GHG tenure**” ins 2009 No. 3 s 492(2)

def “**instrument**” ins 2007 No. 46 s 63(2)

def “**landholder**” amd 2004 No. 25 s 994(1)

def “**mining interest**” amd 2004 No. 25 s 994(2) (amd 2004 No. 26 s 69(2) sch)

def “**notifiable road use**” ins 2005 No. 8 s 84

def “**original term**” ins 2007 No. 46 s 63(2)

def “**overlapping GHG authority**” ins 2009 No. 3 s 492(2)

def “**prescribed security**” ins 2007 No. 46 s 63(2)

def “**production interest**” amd 2004 No. 25 s 994(3)–(4)

def “**properly made application**” ins 2005 No. 8 s 84
amd 2007 No. 46 s 63(5)–(6)

def “**public road**” ins 2005 No. 8 s 84

def “**public road authority**” ins 2005 No. 8 s 84

def “**relevant departmental office**” ins 2009 No. 3 s 492(2)

def “**renewal application**” ins 2007 No. 46 s 63(2)
def “**renewed term**” ins 2007 No. 46 s 63(2)
def “**required information**” ins 2005 No. 8 s 84
def “**road use direction**” ins 2005 No. 8 s 84
def “**security**” amd 2007 No. 46 s 63(7)
def “**state controlled road**” ins 2005 No. 8 s 84
def “**tenure conditions**” sub 2007 No. 46 s 63(1)–(2)
def “**tribunal**”, 1st mention, ins 2005 No. 8 s 84
om 2005 No. 68 s 150 sch
def “**tribunal**” om 2007 No. 39 s 41 sch

7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

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