



Mineral Resources Act 1989

Current as at 1 November 2013—revised version

Reprint notes

1. The definition **registrar** (schedule 2) is included in this reprint. The definition commenced on 31 March 2013—see 2012 Act No. 20 sch 3 item 4.
2. The cross-reference in the definition **special criteria** (schedule 2) is corrected in this reprint to 'section 136C(2)(d)(iii)'—see 2013 Act No. 10 s 78(2).

Reprint note

The text of s 137 is incorrect in this reprint—see 2013 Act No. 10 s 51 for correct text (amd 2012 Act No. 20 s 323 sch 3 (amd 2013 Act No. 10 s 159(2))).

Information about this reprint

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- The table of reprints endnote lists any previous reprints and, for this reprint, gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it.
- The list of legislation endnote gives historical information about the original legislation and the legislation which amended it. It also gives details of uncommenced amendments to this legislation. For information about possible amendments to the legislation by Bills introduced in Parliament, see the Queensland Legislation Current Annotations at www.legislation.qld.gov.au/Leg_Info/information.htm.
- The list of annotations endnote gives historical information at section level.

All Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints are not continued.



Queensland

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Mineral Resources Act 1989

[as amended by all amendments that commenced on or before 1 November 2013]

An Act to provide for the assessment, development and utilisation of mineral resources to the maximum extent practicable consistent with sound economic and land use management

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Mineral Resources Act 1989*.

2 Objectives of Act

The principal objectives of this Act are to—

- (a) encourage and facilitate prospecting and exploring for and mining of minerals;
- (b) enhance knowledge of the mineral resources of the State;
- (c) minimise land use conflict with respect to prospecting, exploring and mining;
- (d) encourage environmental responsibility in prospecting, exploring and mining;

- (4) In this section—

baseline waters means the waters between the mean low water springs level and the inside of the baseline under the *Offshore Minerals Act 1998*, section 16.

3A Relationship with petroleum legislation

- (1) This section does not apply to a coal or oil shale mining tenement.

Note—

For the relationship between this Act and the Petroleum and Gas (Production and Safety) Act—

- (a) in relation to coal or oil shale mining tenements, see chapter 8; or
 - (b) otherwise, see the Petroleum and Gas (Production and Safety) Act, section 6 (Relationship with Mineral Resources Act).
- (2) Subject to subsections (3) to (9), the *Petroleum Act 1923* and the Petroleum and Gas (Production and Safety) Act do not limit or otherwise affect—
- (a) the power under this Act to grant or renew a mining tenement over land (the *overlapping land*) in the area of a petroleum authority; or
 - (b) a mining tenement already granted over land (also the *overlapping land*) in the area of an existing petroleum authority.
- (3) If the petroleum authority is a petroleum lease or petroleum facility licence and the mining tenement is an exploration permit, mineral development licence, or mining lease, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
- (a) the petroleum lease or petroleum facility licence holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged; and

[s 3A]

Note—

For other relevant provisions about lodging documents, see section 386O.

- (c) the agreement is still in force.
- (4) If the petroleum authority is a petroleum lease and the mining tenement is a prospecting permit or mining claim, an authorised activity for the mining tenement may be carried out on the overlapping land only if carrying out the activity does not adversely affect the carrying out of an authorised activity for the petroleum lease.
- (5) Subsection (4) applies whether or not the authorised activity for the petroleum lease has already started.
- (6) If the petroleum authority is an authority to prospect or pipeline licence and the mining tenement is not a mining lease, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
 - (a) the authority to prospect or pipeline licence holder has agreed in writing to the carrying out of the activity, a copy of the agreement has been lodged and the agreement is still in force; or
 - (b) carrying out the activity does not adversely affect the carrying out of an authorised activity for the authority to prospect that has already started.
- (7) If the petroleum authority is an authority to prospect and the mining tenement is a mining lease, an authorised activity for the authority to prospect may be carried out on the overlapping land only if—
 - (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged; and
 - (c) the agreement is still in force.

-
- (8) Subsection (7) does not apply, or ceases to apply, if the same person holds the authority and the mining lease.
 - (9) This section applies despite any other provision of this Act.

3B Relationship with Geothermal Energy Act 2010 and Greenhouse Gas Storage Act 2009

The relationship between this Act, the *Geothermal Energy Act 2010* (the ***Geothermal Act***), the *Greenhouse Gas Storage Act 2009* (the ***GHG storage Act***) and authorities under them is provided for under—

- (a) chapter 9; and
- (b) the Geothermal Act, chapter 5; and
- (c) the GHG storage Act, chapter 4.

3C Declaration for Commonwealth Act

A mining tenement is declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth).

4 Effect of change of baseline

- (1) If—
 - (a) an offshore area is in the area of an exploration permit, mineral development licence or mining lease (the ***mining tenement***); and
 - (b) there is a change to the inner limit of the coastal waters of the State as defined in the *Offshore Minerals Act 1998*, section 16(1) and (2); and
 - (c) as a result of the change, the offshore area comes within those coastal waters;

this Act applies, while the mining tenement or any successor mining tenement remains in force, as if the area were still within the offshore area.

[s 4]

(2) If—

- (a) a mining lease takes effect immediately after an exploration permit expires; and
- (b) the holder of the mining lease immediately after it takes effect was the holder of the exploration permit immediately before it expired;

the mining lease is a successor mining tenement to the exploration permit for subsection (1).

(3) If—

- (a) a mineral development licence takes effect immediately after an exploration permit expires; and
- (b) the holder of the mineral development licence immediately after it takes effect was the holder of the exploration permit immediately before it expired;

the mineral development licence is a successor mining tenement to the exploration permit for subsection (1).

(4) If—

- (a) a mining lease takes effect immediately after a mineral development licence expires; and
- (b) the mineral development licence took effect immediately after an exploration permit expired; and
- (c) the holder of the mining lease immediately after it takes effect was the holder of the mineral development licence immediately before it expired; and
- (d) the holder of the mineral development licence immediately after it took effect was the holder of the exploration permit immediately before it expired;

the mining lease is a successor mining tenement to the exploration permit and the mineral development licence for subsection (1).

(5) In this section—

offshore area means an area of the sea bed and subsoil to which the Act applies.

Part 3 Relationship with Sustainable Planning Act 2009

4A Effect on development

- (1) Subject to subsections (2) and (3), the Planning Act does not apply to development authorised under this Act.
- (2) For administering IDAS for the Heritage Act, the Planning Act applies to a Queensland heritage place under the Heritage Act even if development of the place is authorised under this Act.
- (3) For applying the Planning Act in relation to the *Building Act 1975*—
 - (a) the Planning Act applies to building work, as defined under that Act, forming part of development authorised under this Act, including development authorised under a mining tenement; and
 - (b) the building work is taken to be self-assessable building work for the *Building Act 1975*, section 21.

Note—

See in particular the Planning Act, section 574 (Self-assessable development must comply with codes).

4B Notice to local government and chief executive (planning) of particular mining tenements

- (1) This section applies if a mining claim, mineral development licence or mining lease (the *mining tenement*) is granted or renewed.

[s 5]

- (2) The chief executive must give notice of the mining tenement to—
 - (a) each local government in whose area the area of the tenement is situated; and
 - (b) the chief executive (planning).
- (3) An entity given a notice under subsection (2) must make a note on each relevant map in the local government’s planning scheme held by the entity.
- (4) The note must—
 - (a) identify the area of the mining tenement; and
 - (b) state that the Planning Act does not apply to development in the area authorised under this Act, other than for administering IDAS for the Heritage Act, in relation to a Queensland heritage place under the Heritage Act; and
 - (c) state that interested persons may obtain details of the mining tenement from the chief executive of the department in which this Act is administered.
- (5) In this section—

chief executive (planning) means the chief executive of the department in which the Planning Act is administered.

Part 4 Interpretation

5 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

6 Meaning of *mineral*

- (1) A *mineral* is a substance—
- (a) normally occurring naturally as part of the earth's crust;
or
 - (b) dissolved or suspended in water on or within the earth's crust; or
 - (c) that may be extracted from a substance mentioned in paragraph (a) or (b).
- (2) Subject to subsection (3), each of the following is a *mineral*—
- (a) any type of clay;
 - (b) foundry sand;
 - (c) coal seam gas;

Notes—

- 1 For what is coal seam gas and incidental coal seam gas, see section 318AC.
- 2 See also chapter 8, part 8, division 1.

- (d) limestone;
- (e) marble;
- (f) a product that may be extracted or produced by an underground gasification process for coal or oil shale (*mineral (f)*) and another product that may result from the carrying out of the process (also *mineral (f)*);

Examples of underground gasification processes—

combustion, consumption, heating, leaching and reaction

Example of another product—

gas desorbed as a result of an underground gasification process

- (g) peat;
- (h) salt, including brine;
- (i) oil shale;

[s 6]

Note—

For what is oil shale, see section 318AD.

- (j) silica, including silica sand;
 - (k) rock mined in block or slab form for building or monumental purposes.
- (3) Despite subsections (1) and (2)—
- (a) clay (other than kaolin and bentonite) is only a mineral if it is mined for use for its ceramic properties; and
Examples of uses of clay for its ceramic properties—
 - for brick or tile making
 - for pottery making
 - (b) limestone, silica and silica sand is only a mineral if it is mined for use for its chemical properties; and
 - (c) mineral (f) is only a mineral if—
 - (i) the coal or oil shale, from which it is extracted or produced, is held under a mineral development licence and it has been added to the licence under section 208; or
 - (ii) the coal or oil shale, from which it is extracted or produced, is held under a mining lease and it is specified in the lease.
 - (d) each of the following is not a mineral—
 - (i) soil, sand, gravel or rock (other than rock mentioned in subsection (2)(k)) if it is to be used, or to be supplied for use, as sand, gravel or rock, whether intact or in broken form;
 - (ii) living matter;
 - (iii) steam or water.

6A Meaning of *mine*

- (1) *Mine* means to carry on an operation with a view to, or for the purpose of—
 - (a) winning mineral from a place where it occurs; or
 - (b) extracting mineral from its natural state; or
 - (c) disposing of mineral in connection with, or waste substances resulting from, the winning or extraction.
- (2) For subsection (1), extracting includes the physical, chemical, electrical, magnetic or other way of separation of a mineral.
- (3) Extracting includes, for example, crushing, grinding, concentrating, screening, washing, jigging, tabling, electrowinning, solvent extraction electrowinning (SX-EW), heap leaching, flotation, fluidised bedding, carbon-in-leach (CIL) and carbon-in-pulp (CIP) processing.
- (4) However, extracting does not include—
 - (a) a process in a smelter, refinery or anywhere else by which mineral is changed to another substance; or
 - (b) testing or assaying small quantities of mineral in teaching institutions or laboratories, other than laboratories situated in the area of a mining lease; or
 - (c) an activity, prescribed under a regulation, that is not directly associated with winning mineral from a place where it occurs.
- (5) For subsection (1), disposing includes, for example, the disposal of tailings and waste rock.
- (6) A regulation under subsection (4)(c) may prescribe an activity by reference to the quantities of minerals extracted or to any other specified circumstances.

6B Meaning of *prospect*

- (1) *Prospect* means take action to find out about the existence, quality or quantity of minerals on, in or under land by—

[s 6C]

- (a) using a metal detector or a similar handheld instrument;
or
 - (b) sampling using only handheld implements, including, for example, hammers, hand augers, panning dishes, picks, shakers, shovels and sieves.
- (2) However, *prospect* does not include taking action that is—
- (a) hand mining; or
 - (b) the removal of minerals for their sale.

6C What is carrying out *improvement restoration*

- (1) To carry out *improvement restoration*, for a mining tenement, means to repair any damage caused by an activity under the tenement to all pre-existing improvements on, or attached to, the area of the tenement by—
- (a) restoring them to the same, or substantially the same, condition they were in before the damage happened; or
 - (b) replacing them with another improvement in the condition mentioned in paragraph (a).
- (2) For subsection (1), damage does not include damage to which a requirement to rehabilitate or remediate under the Environmental Protection Act applies.

6D Types of authority under Act

The types of authority under this Act are—

- (a) a prospecting permit; and
- (b) a mining claim; and
- (c) an exploration permit; and
- (d) a mineral development licence; and
- (e) a mining lease.

7 When educational institution is an eligible person

The Minister may treat an educational institution as an eligible person under this Act to enable it to apply for and hold a prospecting permit, mining claim or mining lease only if the Minister is satisfied the activities it intends to carry out under the permit, claim or lease are educational or training activities.

Part 5 General provisions for minerals and mining tenements

8 Crown's property in minerals

- (1) Gold on or below the surface of land is the property of the Crown.
- (2) Coal—
 - (a) on or below the surface of land that was acquired by the Crown as provided in the *Agricultural Lands Special Purchase Act 1901* and subsequently alienated in fee simple by the Crown is the property of the Crown;
 - (b) on or below the surface of land (other than land referred to in paragraph (a)) is the property of the Crown except where that land was alienated in fee simple by the Crown before 1 March 1910 and the grant of that land did not contain a reservation to the Crown of the property in that coal.
- (3) All minerals (other than coal and gold but including minerals dissolved or suspended in water within or upon the earth's crust) on or below the surface of land in Queensland other than land alienated in fee simple by the Crown pursuant to—
 - (a) the *Alienation of Crown Lands Act 1860*, section 22; or
 - (b) the *Crown Lands Alienation Act 1868*, section 32; or

[s 9]

- (c) the *Mineral Lands Act 1872*, section 21;
are the property of the Crown.
- (4) Each deed of grant or lease of unallocated State land must contain a reservation of—
 - (a) minerals on and below the surface of the land; and
 - (b) the right of access for prospecting, exploring or mining.
- (5) Mineral on or below the surface of land that is or becomes road is (to the extent that the mineral, but for this subsection would not be the property of the Crown) on and from the date the land becomes or became road, the property of the Crown.
- (6) Where land to a specified depth only is or becomes road, subsection (5) applies in respect only of mineral in or below the surface of that land to the specified depth.
- (7) Nothing in subsections (5) and (6) shall be construed as abrogating any right that the owner of land whose land is compulsorily acquired after the commencement of this Act for the purpose of being used as a road may have under any other Act or law to compensation in respect of that acquisition.

9 Exclusive right of Crown to grant mining leases etc. irrespective of ownership of mineral

- (1) A person is not competent to grant a lease or to enter into an agreement or arrangement, whether for valuable consideration or otherwise (other than an agreement referred to in section 320(2)(a) or (b)) authorising the prospecting or exploring for mineral or the mining of any mineral therefrom notwithstanding that the mineral is not the property of the Crown.
- (2) For the purposes of subsection (1) a compensation agreement entered into pursuant to this Act does not authorise prospecting, exploring or mining.
- (3) Subject to this Act, a mining tenement may be granted over land even though—

-
- (a) a deed of grant in fee simple from the State may or may not contain a reservation to the State of the relevant mineral on or below the surface of the land; or
 - (b) the relevant mineral is not the property of the State.
- (4) Notwithstanding the other provisions of this Act, a person who undertakes any airborne activity to determine the existence of minerals shall notify the Minister after the completion of that activity and shall furnish the Minister such data as the Minister may determine in the particular case.

10 Act does not create estates in land

The grant of a mining tenement under this Act does not create an estate or interest in land.

10AAA Extinguishing mining tenement interests on the taking of land in a mining tenement's area (other than by an easement)

- (1) This section applies to the taking of land, other than by taking or otherwise creating an easement, under a resumption law.
- (2) Despite any other Act, the taking of land does not extinguish mining tenement interests other than to the extent, if any, provided for in the resumption notice for the taking of the land.
- (3) The resumption notice for the taking of land may provide for the extinguishment of a mining tenement interest on the taking only to the extent the relevant Minister for the taking is satisfied the interest is incompatible with the purpose for which the land is taken.
- (4) Without limiting the application of subsection (3), the relevant Minister may be satisfied a mining tenement interest is incompatible with the purpose for which the land is taken if, for that purpose, it is necessary to extinguish all interests in the land, including native title rights and interests.

[s 10AAA]

- (5) A mining tenement interest may be—
 - (a) wholly extinguished; or
 - (b) partially extinguished by—
 - (i) excluding land from the land the subject of the interest; or
 - (ii) prohibiting the carrying out of activities by the holder of the interest.
- (6) The resumption notice for the taking of land may provide for the extinguishment of mining tenement interests by reference to either or both of the following—
 - (a) stated land, which—
 - (i) may be all or part of the land that is taken; and
 - (ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—
 - (A) as a shape that does not constitute a block or sub-block; or
 - (B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;
 - (b) stated mining tenement interests, which may be all mining tenement interests or mining tenement interests of a particular type.
- (7) For the taking of land for which mining tenement interests are extinguished as provided by this section—
 - (a) each person's interest in an extinguished mining tenement interest is converted into a right to claim compensation under the resumption law; and
 - (b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 10AAD.

-
- (8) The notice of intention to resume for the proposed taking of the land must state the extent to which the mining tenement interests are proposed to be extinguished.
- (9) The entity taking the land must give the chief executive a written notice that—
- (a) states the details of the extinguishment; and
 - (b) asks for the extinguishment to be recorded in the register; and
 - (c) is accompanied by a certified copy of the resumption notice.

- (10) In this section—

certified copy, of the resumption notice, means a copy of the original of the notice that has been certified by a justice of the peace as being a correct copy of the original notice.

relevant Minister, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the Minister to whom the application that the land be taken is made under section 9 of that Act; or
- (b) otherwise—the Minister administering the resumption law under which the land is, or is to be, taken.

10AAB Effect of extinguishment of mining tenement interests on the taking of land in a mining tenement's area (other than by an easement)

- (1) This section applies if, under section 10AAA, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of mining tenement interests for stated land.
- (2) If the resumption notice states that all mining tenement interests relating to the stated land are extinguished and a

[s 10AAB]

mining tenement interest relates only to the stated land, the interest is wholly extinguished.

- (3) If the resumption notice states that all mining tenement interests relating to the stated land are extinguished and a mining tenement interest relates to the stated land and other land—
 - (a) the stated land is no longer the subject of the interest; and
 - (b) without limiting paragraph (a)—
 - (i) the stated land is excluded from the area of the mining tenement comprising the interest, or under or in relation to which the interest exists; and
 - (ii) this Act applies in relation to the area of the mining tenement with necessary and convenient changes to allow for the exclusion of the stated land, including, for example, to allow the area—
 - (A) to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area; or
 - (B) to comprise land that is not contiguous; and
 - (iii) for this Act, land in the area of the mining tenement is taken to be contiguous if the land would be contiguous but for the exclusion of the stated land.
- (4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated mining tenement interests is prohibited, the holder of a stated mining tenement interest is not, or is no longer, authorised to carry out the stated activities on the stated land.
- (5) However, subsections (3) and (4) do not apply in relation to a mining tenement interest that comprises, or exists under or in relation to, a new or renewed mining tenement granted after the land is taken.

10AAC Applications relating to land taken under a resumption law for which mining tenement interests were extinguished

- (1) The decision-maker for an application for a new mining tenement may, under a grant provision, grant a new mining tenement for an area that includes acquired land only if the decision-maker, after consulting the entity that took the land, is satisfied the grant of the tenement is compatible with the purpose for which the land is being or is to be used.
- (2) If there are 2 or more applications under this Act for the grant, under a grant provision, of a new mining tenement for an area that includes the same acquired land, the applications are to be dealt with as follows—
 - (a) the applications must be considered and decided according to the day on which they are lodged;
 - (b) if the applications were lodged on the same day—
 - (i) they take the priority the decision-maker decides, after considering the relative merits of each application; and
 - (ii) the chief executive must give each applicant a written notice stating there is competition for priority between the applicant's application and another application, or other applications, lodged on the same day as the day on which the applicant's application was lodged.
- (3) If a grant provision provides for the grant of a new mining tenement (the *new tenement*) over land in the area of an existing mining tenement (the *existing tenement*)—
 - (a) the application under this Act for the new tenement may include acquired land that was, immediately before the taking of the land, in the existing tenement's area; and
 - (b) subject to subsections (1) and (2), the decision-maker for the application may grant a new tenement for an area that includes the acquired land as if the acquired land were in the existing tenement's area.

[s 10AAD]

- (4) To remove any doubt, it is declared that this section does not affect the operation of the provisions of this Act about the application for, and grant of, a new mining tenement other than to the extent provided for in subsections (1) to (3).
- (5) In this section—
- decision-maker*, for an application for a new mining tenement, means the entity responsible for granting the tenement.
- grant provision* means a provision of this Act providing for the grant of a new mining tenement.
- new mining tenement* includes a renewed mining tenement.

10AAD Compensation for effect of taking of land in a mining tenement's area on mining tenement interests

- (1) This section applies if land in a mining tenement's area is taken under a resumption law (including by taking or otherwise creating an easement).
- (2) In assessing any compensation to be paid to the holder of a mining tenement interest in relation to the taking of the land, allowance can not be made for the value of minerals known or supposed to be on or below the surface of, or mined from, the land.

10AA Joint holders of mining tenement

- (1) A mining tenement may be held by 2 or more persons as joint tenants or as tenants in common.
- (2) If, under this Act—
- (a) an application is made for a mining tenement, or for approval of an assessable transfer for a mining tenement or an application transfer, for more than 1 proposed holder or transferee; and

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- (b) the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and
 - (c) the mining tenement or approval is granted;
- the chief executive must record in the register that the holders or transferees hold the mining tenement as tenants in common.
- (3) In this section—
- mining tenement* includes an interest in a mining tenement.

10A Extension of certain entitlements to registered native title bodies corporate and registered native title claimants

- (1) To the extent that a provision of chapter 2, other than section 19(1) or 34, applies to a prospecting permit granted only for pegging purposes, a reference in the provision to the owner of land is taken to include a reference to any registered native title body corporate under the Commonwealth Native Title Act in relation to any of the land.
 - (2) To the extent that section 31 applies to a prospecting permit granted other than only for pegging purposes, a reference in the section to the owner of land is taken to include a reference to any registered native title body corporate or registered native title claimant under the Commonwealth Native Title Act in relation to any of the land.
 - (3) In sections 34, 125, 231(9) and 317 and chapter 13, part 2 a reference to the owner of land is taken to include a reference to any registered native title body corporate or registered native title claimant under the Commonwealth Native Title Act in relation to any of the land.
 - (4) In this section—
- pegging purposes*, in relation to a prospecting permit, means purposes necessary to enable the holder of the permit to apply for a mining claim or mining lease over the land for which the permit is granted.

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Part 6 Mining districts

11 Mining districts

- (1) The chief executive may by gazette notice declare an area of land to be a mining district.
- (2) The notice must—
 - (a) state the name of the mining district; and
 - (b) give a description, by map or otherwise, of the location and boundaries of the mining district.

Chapter 2 Prospecting permits

Part 1 Prospecting permit categories and entitlements

13 Definition for pt 1

In this part—

holder, of a prospecting permit, includes a person who is an officer, employee, contractor or agent of the holder if the person is in actual possession of—

- (a) the permit; or
- (b) the holder's written permission for the person to do something the holder may do under the permit.

14 Categories of prospecting permit

- (1) A prospecting permit may be granted for—
 - (a) a mining district; or

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- (b) a lot; or
 - (c) 2 or more adjoining lots owned by the same person.
- (2) A prospecting permit under subsection (1)(a) is a *district prospecting permit*.
- (3) A prospecting permit under subsection (1)(b) or (c) is a *parcel prospecting permit*.

15 Area of land covered by parcel prospecting permit

- (1) A parcel prospecting permit may be granted for all or part of the land of a lot, or 2 or more adjoining lots owned by the same person.
- (2) More than 1 parcel prospecting permit may be granted over a lot, or 2 or more adjoining lots owned by the same person.
- (3) If an application for a parcel prospecting permit is for only part of the land of a lot, or 2 or more adjoining lots owned by the same person, the permit may be granted for all of the area.

16 Land excluded from prospecting permit

- (1) Land is excluded from a prospecting permit if—
- (a) it is in the area of a mining claim, mineral development licence or mining lease; or
 - (b) it is covered by an application for a mining claim, mineral development licence or mining lease that has not been finally decided.
- (2) Also, a prospecting permit may be granted for all or part of a fossicking area only if the application for the permit was made, but not decided, before the land became a fossicking area.
- (3) However, if the holder of, or applicant for, the mining claim, mineral development licence or mining lease consents in writing to an application for a prospecting permit for land in the area of or covered by the claim, licence or lease, this

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section does not apply to the application to the extent stated in the consent.

- (4) In addition, this section does not apply if—
- (a) the prospecting permit holder is the applicant for the mining claim, mineral development licence or mining lease; and
 - (b) there is no other application for a claim, licence or lease for land in the area of the prospecting permit.

17 Prospecting permit to be granted to a single person

A prospecting permit may only be issued in the name of a single eligible person.

18 Entitlements under prospecting permit

- (1) A holder of a prospecting permit for land may enter the land for—
- (a) purposes necessary to enable the holder to apply for a mining claim or mining lease over the land; or
 - (b) prospecting purposes; or
 - (c) hand mining for a mineral other than coal.
- (2) The holder may—
- (a) enter and leave the land using a reasonable type of transport; and
 - (b) enter and leave the land through land the permit states is access land.

19 Consent required to enter certain land

- (1) A parcel prospecting permit holder may enter the surface of a reserve for prospecting purposes only with the written consent of the owner of the reserve.

- (2) A district prospecting permit holder may enter the surface of occupied land only with the written consent of the owner of the land.
- (3) Also, a prospecting permit holder may enter occupied land for hand mining only with the written consent of the owner of the land.
- (4) In addition, a prospecting permit holder may enter restricted land only with the written consent of the owner of the land where the relevant permanent building, or relevant feature, is situated.
- (5) Further, a prospecting permit holder may enter land within 50m laterally of a place where activities are being carried on under an exploration permit only with the written consent of the exploration permit holder.

20 Provisions about consents to enter land

- (1) This section applies to consents for a prospecting permit holder to enter land.
- (2) In the absence of evidence to the contrary, the consent of an owner who is a joint tenant or tenant in common with other owners, is taken to be the consent of all the owners.
- (3) If the owner of land can not be easily contacted, a consent may be given for the land by the land's occupier.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current overseas address for the owner.
 - 2 The owner is travelling in Australia and there is no known current address for the owner.
- (4) Consent under this section may be given on conditions.
 - (5) The holder of a consent must comply with the consent's conditions.

Maximum penalty for subsection (5)—10 penalty units.

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Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (6) A consent given for land may be amended or withdrawn by the land's owner (or, if given by the occupier, the occupier) by written notice given to the holder and the chief executive.

Note—

For other relevant provisions about giving the chief executive documents, see section 386O.

Part 2 **Other provisions about prospecting permits**

21 **Application for prospecting permit**

An application for a prospecting permit for land must—

- (a) be made in the approved form and lodged with the chief executive; and
- (b) be accompanied by—
 - (i) proof, to the chief executive's satisfaction, of the applicant's identity; and
 - (ii) the fee prescribed under a regulation; and
- (c) state the applicant's name, and address for service of notices; and
- (d) if the application is for a parcel prospecting permit—
 - (i) identify, by sketch and description, or in another way acceptable to the chief executive, the land over which the permit is sought and land proposed to be used as access; and

- (ii) state the name and address of each owner of occupied land over which the permit is sought; and
- (iii) state the name and address of each owner of land proposed to be used as access.

22 Reason for rejection of application to be given

If the chief executive rejects an application for the grant of a prospecting permit, the chief executive must, within 5 business days after deciding to reject, give the applicant a written notice stating the decision and the reasons for it.

23 Refund upon rejection of application

If the chief executive rejects an application for the grant of a prospecting permit the application fee and any other moneys that accompanied the application for the permit shall be refunded to the applicant.

24 Grant of prospecting permit

- (1) The chief executive may grant a prospecting permit for land if the chief executive is satisfied an eligible person has—
 - (a) made a genuine application that complies with this chapter, and otherwise complied with the requirements of this Act; and
 - (b) deposited the amount of security required to be deposited for the permit.

Note—

If the application relates to acquired land, see also section 10AAC.

- (2) If the chief executive is of the opinion that an applicant for a prospecting permit had previously contravened or failed to comply with any provision of this Act, the repealed Acts, any other Act about mining or the *Fossicking Act 1994*, the chief executive may, whether or not that person had been charged or

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convicted of an offence in respect of that contravention or failure to comply, reject the application.

- (3) For subsection (2), a company is taken to have contravened a provision of this Act if the person contravening the provision is—
- (a) an officer or employee of the company; or
 - (b) someone else who is in a position to control or substantially influence the company's affairs.

24A Content of prospecting permit

A prospecting permit granted by the chief executive must—

- (a) be in the approved form for the type of permit granted; and
- (b) state the following information—
 - (i) the identification number of the permit;
 - (ii) the name of the holder;
 - (iii) the address for service of notices on the holder;
 - (iv) the description of land for which the permit is granted;
 - (v) the term and date of commencement of the permit;
 - (vi) the conditions, other than conditions prescribed by this Act, to which the permit is subject.

25 Conditions of prospecting permit

- (1) It is a condition of each prospecting permit that the holder must carry out improvement restoration for the permit.
- (1A) If a prospecting permit is granted over land that includes a wild river area, the prospecting permit is subject to any relevant conditions stated in the wild river declaration for the area.

- (2) A prospecting permit shall be subject to any prescribed conditions and such other conditions as the chief executive shall from time to time impose.
- (3) In imposing conditions upon the grant of a prospecting permit the chief executive shall take into consideration the possible effect upon the owner of the land of the grant of the permit having regard to the holder's entitlements under that permit and any other subsisting permits.
- (4) The chief executive may from time to time, by notice in writing to the holder of a prospecting permit vary any condition imposed by the chief executive.
- (5) Despite subsections (1A) to (4), a condition must not be imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a prescribed condition under the Environmental Protection Act for carrying out a small scale mining activity.
- (6) The holder of a prospecting permit and all persons acting under the authority of the permit shall comply with the conditions for the time being of the permit of which notice has been served on the holder.
- (7) To remove doubt, it is declared that a condition may limit the extent of the holder's entitlements under section 18(1).
- (8) If a prospecting permit is subject to a condition imposed under schedule 1A, section 433, the condition is taken to be a condition of the permit of which notice has been served on the holder.

25AA Additional conditions of prospecting permit relating to native title

- (1) Conditions imposed on a prospecting permit by the chief executive under section 25(2) may include native title protection conditions for the permit.
- (2) Subsection (1) does not limit section 25(2).

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- (3) In this section—
- native title protection conditions*, for a prospecting permit, means conditions that—
- (a) are about ways of minimising the impact of the permit on native title in relation to the land affected by the permit, including ways of accessing the land and ways anything authorised under the permit may be done; and
 - (b) are identified in the permit as native title protection conditions for the permit.

25A Indigenous land use agreement conditions

- (1) This section applies if—
- (a) a registered indigenous land use agreement under the Commonwealth Native Title Act provides for the granting of a prospecting permit; and
 - (b) the State is a party to the agreement; and
 - (c) the agreement includes a requirement that, if the prospecting permit is granted, it must be granted subject to conditions stated in the agreement (the *stated conditions*); and
 - (d) the prospecting permit is granted.
- (2) The prospecting permit is subject to the stated conditions.
- (3) The stated conditions are taken to be conditions of the permit of which notice has been served on the holder of the prospecting permit.

26 Provision of security

- (1) A prospecting permit shall not be granted until the applicant for the permit deposits the security (if any) determined by the chief executive for compliance with the conditions of the prospecting permit and the provisions of this Act and to rectify any actual damage that may be caused by any person

whilst purporting to act under the authority of the permit to pre-existing improvements for the permit.

- (2) If the chief executive fixes an amount of security under subsection (1), the amount must not be less than the amount prescribed under a regulation.
- (3) The owner of any land may apply in writing to the chief executive to rectify the damage referred to in subsection (1) that has been caused by any activity allegedly authorised under a prospecting permit in respect of that land.
- (4) If the chief executive is satisfied (whether or not upon an application referred to in subsection (3)) that damage referred to in subsection (1) has been caused by any person purporting to act under the authority of a prospecting permit the chief executive shall require that person to take all action necessary to rectify that damage.
- (5) The chief executive may, at any time (whether before or after the expiry or cancellation of a prospecting permit), use all or part of the security deposited for the permit to rectify actual damage caused by someone acting under the permit.
- (6) If, at any time (whether during or within 20 business days after the expiration of the term of a prospecting permit) the amount or any part of the amount deposited under this section is utilised as provided by subsection (5) or the chief executive considers that, in view of the damage caused or likely to be caused by any person purporting to act under the authority of the prospecting permit or for any other reason, a further amount of security should be deposited in respect of that prospecting permit, the chief executive shall require the holder or former holder of the prospecting permit, within the time specified by the chief executive, to deposit the further security.
- (7) The chief executive may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the chief executive or other form of security

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acceptable to the chief executive as the whole or part of the security to be deposited under this section.

- (8) It shall be a condition of a prospecting permit that the holder shall deposit security or further security from time to time in accordance with a requirement made as provided by this section.
- (9) Subsection (10) applies if an amount of security deposited by a holder of a prospecting permit has not been used when the permit terminates and—
 - (a) for a parcel prospecting permit—the owner of the occupied land in the area of the permit—
 - (i) gives the chief executive written approval to refund the security; or
 - (ii) does not make a claim against the security within—
 - (A) 20 business days after the termination; or
 - (B) a longer period (of not more than 3 months) fixed by the chief executive by written notice given to the permit holder and owner; or
 - (b) for a district prospecting permit—an owner of land in the area of the permit does not make a claim against the security within—
 - (i) 20 business days after the termination; or
 - (ii) a longer period (of not more than 3 months) fixed by the chief executive by written notice given to the permit holder and owner.
- (10) After deducting the amount the chief executive considers should be held for use under subsection (5), the chief executive may refund the balance of the security.
- (11) The chief executive must refund the amount to the permit holder or in accordance with any written direction the holder gives the chief executive.

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- (12) In the absence of evidence to the contrary, the approval of an owner who is a joint tenant or tenant in common is taken to be the approval of all the owners for subsection (9)(a)(i).
- (13) Subsection (10) does not limit the chief executive's powers under subsection (15).
- (14) If—
- (a) a prospecting permit holder applies for a mining claim or mining lease; and
 - (b) the application has not been finally decided when the permit is terminated; and
 - (c) after the application is decided, an amount held as security under this section is not held as security for the claim or lease;
- the amount may be refunded under subsection (9).
- (15) If the chief executive accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution, insurance company or credit provider as security under this section, any amount payable to the holder under subsection (9) or (10) must be refunded to the financial institution, insurance company or credit provider and not to the holder of the prospecting permit to which the security relates.

27 Utilisation of security deposit towards subsequent prospecting permit

If the holder of a prospecting permit or an expired prospecting permit makes application for a further prospecting permit, the chief executive may, instead of refunding the whole or part of the security deposited in respect of the existing or expired permit, retain that security or part thereof (together with any further security fixed by the chief executive) as the security (in which case it shall be taken to be or to be part of the security) deposited by the applicant in respect of the application for the further prospecting permit.

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28 Compensation

- (1) Notwithstanding section 26, the Crown or an owner is entitled to recover, from time to time in the Land Court, compensation in respect of damage or injury suffered or loss incurred by reason of a person acting or purporting to act under the authority of a prospecting permit but any moneys paid under that section in respect of rectification of damage the subject of the proceeding shall be taken into account in assessing any compensation.
- (2) The holder of a prospecting permit is not liable under this section in respect of damage or injury or loss caused by another person who is not a holder and is not a person authorised by the holder to be in the area of the prospecting permit.

29 Term of prospecting permit

- (1) A prospecting permit may be granted for—
 - (a) if it is a district prospecting permit—1 or more months but not longer than 1 year; or
 - (b) if it is a parcel prospecting permit—3 months.
- (2) A prospecting permit's term must—
 - (a) be stated in the permit; and
 - (b) not start before the day the permit is granted.

30 Rights and obligations extended upon application for mining claim etc.

- (1) The holder of a prospecting permit who, during the term of the prospecting permit, makes application for the grant of—
 - (a) a mining claim; or
 - (b) a mining lease;in respect of any land in the area of the prospecting permit, shall, during the period from the expiration of the prospecting

permit until the determination of the application, for so long as the provisions of this Act and the terms and conditions that would apply if the permit were current are complied with, have all the responsibilities, powers, authorities and duties that the holder would have had in respect of the land the subject of the application if the prospecting permit was current.

- (2) The entitlements of the holder of a prospecting permit are not reduced or limited by reason only of the holder's application for the grant of a mining claim or a mining lease in respect of any land in the area of the prospecting permit.

31 Chief executive to notify owners of occupied land of grant of parcel prospecting permit

- (1) Upon granting a parcel prospecting permit, the chief executive must, within 5 business days after the grant, advise the owner of any occupied land specified in the permit including occupied land (other than a reserve for public road) specified as access.
- (2) Where advice is not in writing, the advice shall be confirmed in writing as soon as practicable.

32 Notice of entry under parcel prospecting permit

- (1) A parcel prospecting permit holder must give the owner of the land in the area of the permit notice of entry before initial entry is made under the permit.
- (2) The notice must be given at least 5 business days before the intended entry (or a shorter time acceptable to the owner and endorsed on the notice).
- (3) If the owner can not be easily contacted, the holder may notify the occupier of the land of the intended entry.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current address for the owner.

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- 2 The owner is travelling within Australia and there is no known current address for the owner.
- (4) If the holder satisfies the chief executive it is impracticable to give either the owner or occupier notice of the intended entry, the chief executive may dispense with the need to give notice.
- (5) If the chief executive dispenses with the need to give notice, the chief executive must make an appropriate endorsement on the permit.
- (6) However, before making the endorsement, the chief executive may require the holder to take the action the chief executive considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.

33 Prospecting permit not transferable

A prospecting permit is not transferable.

34 Report to chief executive by owner of land

- (1) Where a person purports to enter or be upon land under the authority of a prospecting permit, the owner of that land who considers that that person is not authorised to enter or be upon that land or is not complying with any condition of the prospecting permit or of any provision of this Act may report accordingly to the chief executive.
- (2) The chief executive shall have the report investigated and shall advise the owner of land who reports under subsection (1) of any action taken upon the report.

35 Penalty for breach of conditions

If the chief executive considers on reasonable grounds that there has been a breach of any condition of a prospecting permit or of this Act by the holder of the permit or any person purporting to act under the authority of the prospecting permit, the chief executive may determine that an amount (not

exceeding 5 penalty units) fixed by the chief executive shall be due and owing to the Crown by the holder by way of penalty for that breach.

36 Cancellation of prospecting permit

- (1) The chief executive may at any time, by notice in writing in the approved form served on the holder of a prospecting permit or other person apparently acting under the authority of the permit, cancel the permit.
- (2) A notice cancelling a prospecting permit served pursuant to subsection (1) shall state the reasons for the cancellation.

37 Surrender of prospecting permit

The holder of a prospecting permit may, at any time before the expiration of its term, by notice in writing to the chief executive surrender the permit.

38 Appeals about prospecting permits

- (1) A person whose interests are adversely affected by a decision to which this section applies (the *aggrieved person*) may appeal against the decision to the Land Court.
- (2) This section applies to the following decisions of the chief executive—
 - (a) a decision to refuse to grant a prospecting permit;
 - (b) a decision to impose a condition on a prospecting permit;
 - (c) a decision to vary a condition imposed on a prospecting permit;
 - (d) a decision to require an applicant for, or holder of, a prospecting permit to deposit security;

Note—

For the provision of security, see section 26.

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- (e) a decision about the use of security deposited by a prospecting permit holder towards rectification of damage caused by noncompliance with permit conditions;

Note—

For the penalty for a breach of a condition of a prospecting permit, see section 35.

- (f) a decision to require a prospecting permit holder to pay an amount to the State by way of penalty for a breach of a permit condition;
- (g) a decision to cancel a prospecting permit.

39 How to start an appeal

- (1) An appeal is started by filing a written notice of appeal with the chief executive.
- (2) The notice of appeal must be filed within 20 business days after the aggrieved person receives notice of the decision appealed against.

Note—

For other relevant provisions about filing documents, see section 386O.

- (3) However, if—
 - (a) the decision did not state the reasons for the decision; and
 - (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (2);the person may make the application within 20 business days after the person is given the statement of reasons.
- (4) In addition, the Land Court may extend the period for filing the notice of appeal.
- (5) The notice of appeal must state the grounds of appeal.

40 Stay of operation of decisions

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

41 Hearing procedures

- (1) In deciding an appeal, the Land Court—
 - (a) is not bound by the rules of evidence; and
 - (b) must observe natural justice.
- (2) An appeal is by way of rehearing.

42 Powers of Land Court on appeal

- (1) In deciding an appeal, the Land Court may—
 - (a) confirm the decision appealed against; or
 - (b) set the decision aside and substitute another decision; or
 - (c) set aside the decision and return the issue to the chief executive with directions the Land Court considers appropriate.
- (2) In substituting another decision, the Land Court has the same powers as the chief executive.

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Example—

The Land Court may decide that an unsuccessful applicant for a prospecting permit be granted the permit and impose conditions on it.

- (3) If the Land Court substitutes another decision, the substituted decision is taken to be the decision of the chief executive.

43 Minerals taken become property of holder of prospecting permit

All minerals mined as a result of hand-mining activities lawfully carried on under the authority of a prospecting permit cease to be the property of the Crown or the person who had property therein and become the property of the holder of the prospecting permit subject however to the rights to royalty payments under this Act of the Crown or any other person.

44 Royalties in respect of minerals taken under prospecting permit

The holder of a prospecting permit shall pay in respect of all minerals mined or purported to be mined under the authority of that prospecting permit, the royalty prescribed pursuant to chapter 11.

46 Production of prospecting permit

- (1) A person purporting to be upon land under the authority of a prospecting permit shall upon demand made by the owner of that land, an agent of the owner or a person authorised in that behalf by the Minister for proof of the person's authority for being on the land, produce or cause to be produced to the person making the demand the prospecting permit or a written authorisation in a form acceptable to the chief executive from the holder of the prospecting permit authorising the person to enter or be upon that land for prospecting purposes.
- (2) For so long as a person fails to comply with a demand lawfully made of the person under subsection (1) the person does not have any of the entitlements under this Act.

47 Staying on occupied land

- (1) A person entitled to enter occupied land under a district prospecting permit must not enter land at night without the written consent of the land's owner.

Maximum penalty—10 penalty units.

- (2) A person entitled to enter occupied land under a parcel prospecting permit must not enter the land at night without the written consent of the land's owner or the chief executive.

Maximum penalty—10 penalty units.

- (3) In the absence of evidence to the contrary, the consent of an owner who is a joint tenant or tenant in common is taken to be the consent of all the owners.

- (4) If the owner of land can not be easily contacted, a consent may be given for the land by the land's occupier.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current address for the owner.
- 2 The owner is travelling within Australia and there is no known current address for the owner.

- (5) Consent under this section may be given on conditions.

- (6) The chief executive's consent and any consent conditions must be endorsed on the permit.

- (7) A person who enters occupied land at night with a consent under this section must comply with conditions imposed by the owner or occupier of the land or the chief executive.

Maximum penalty—10 penalty units.

Chapter 3 Mining claims

48 Land in area of mining claim

- (1) A mining claim may be granted over land in the area of a prospecting permit or prospecting permits, or exploration permit or exploration permits, to the holder thereof or to the holder thereof and other eligible persons.

Note—

For inclusion of acquired land that was previously in the area of a prospecting permit or exploration permit, see section 10AAC(3).

- (2) The area of the mining claim must include the whole of the surface of the land within the boundaries of the area of the mining claim.

Note—

However, see section 10AAB(3) if land in the area of the mining claim is taken under a resumption law.

49 Only eligible persons to hold mining claims

A mining claim shall not be held by a person who is not an eligible person.

50 Entitlements under mining claim

- (1) During the currency of a mining claim, the holder of the mining claim and any person who actually works the mining claim as agent or employee of the holder—
 - (a) may in, on or under the area of the mining claim—
 - (i) prospect for any mineral to which the mining claim applies; and
 - (ii) for a mining claim other than a prescribed mining claim—hand mine in accordance with the conditions of the mining claim any mineral to which the mining claim applies; and

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- (iii) for a prescribed mining claim—mine in accordance with the conditions of the mining claim any mineral to which the mining claim applies; and
 - (b) for the purpose of prospecting or mining as provided in paragraph (a) may—
 - (i) enter that area; and
 - (ii) use such machinery, mechanical devices or other equipment as are authorised under this Act to be used for that purpose; and
 - (iii) erect and maintain a structure (including, where authorised so to do by the mining claim, a temporary residence for a person who is bona fide using the area of the mining claim for a purpose for which it was granted) not being of a permanent nature on that area; and
 - (c) for the purpose of mining as provided in paragraph (a)(ii) or (iii), may, subject to compliance with the conditions of the mining claim and any other Act or law, make moderate use of explosives where the mining claim specifically authorises that use.
- (2) During the currency of the mining claim, the rights of the holder relate, and are taken to have always related, to the whole of the area of the claim.
 - (3) During the currency of a mining claim, a person who delivers goods or substances or provides services to the holder may enter that area for that purpose.
 - (4) Where any Act provides that water may be diverted or appropriated only under authority granted under that Act, the holder of a mining claim shall not divert or appropriate water unless the holder holds that authority.
 - (5) In this section—

prescribed mining claim means a mining claim that—

 - (a) applies to corundum, gemstones or other precious stones, and the area of which has been decided by the Minister under section 53; or

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- (b) has been converted from a mining lease under section 816.

51 Land for which mining claim not to be granted

- (1) A mining claim may not be granted for land in the area of or covered by—
 - (a) an existing mining claim; or
 - (b) a mining lease; or
 - (c) a mineral development licence; or
 - (d) an earlier application for a mining claim, mineral development licence or mining lease that has not been finally decided or withdrawn; or
 - (e) an exploration permit or earlier application for an exploration permit unless the applicant for the claim gives the chief executive the written consent of the holder of, or applicant for, the permit on or before the last objection day.
- (1A) However, subsection (1)(e) does not apply to land in the area of or covered by an exploration permit, or earlier application for an exploration permit, if the applicant for the mining claim is the same person as the holder of, or applicant for, the exploration permit.
- (2) A mining claim may be granted over the surface of land that is restricted land when the application for the claim was lodged only if—
 - (a) the owner of the land where the relevant permanent building or relevant feature is situated, consents in writing to the application; and
 - (b) the applicant lodges the owner's written consent with the chief executive before the last objection day ends.
- (3) The owner of the land can not withdraw his or her consent under subsection (2) once it has been lodged with the chief executive.

52 No mining claim in respect of coal

A mining claim may be granted in respect of any specified minerals other than coal.

53 Area and shape of mining claim land

- (1) Subject to subsection (1A), the land for which a mining claim may be granted—
- (a) must be—
 - (i) rectangular in shape; or
 - (ii) of the dimensions prescribed under a regulation; and
 - (b) must be more or less the prescribed area.
- (1A) For a mining claim that applies to corundum, gemstones or other precious stones, the Minister also may grant the claim for an area, of not more than 20ha, decided by the Minister (the *decided area*).
- (2) Despite subsection (1)(a), the Minister may, for a particular mining claim for which an area is not decided by the Minister, accept an application for a mining claim over land of a different shape.
- (2A) In deciding the area of a mining claim for subsection (1A), the Minister must have regard to—
- (a) whether the area of land is mineralised; and
 - (b) whether the area of land is of an appropriate size and shape in relation to the mineralisation; and
 - (c) the type and location of activities to be carried out under the mining claim.
- (3) The prescribed area of the land over which a mining claim for which an area is not decided by the Minister may be granted is—
- (a) 1ha; or

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(b) where the land is within a mining district or part of a mining district in respect of which, for the purposes of this section, an area is prescribed by regulation, that area;

whichever is the smaller.

(3A) Subsection (3B) applies to a mining claim for which an area is decided by the Minister if the land to which the mining claim applies is within an area prescribed by regulation under subsection (3)(b).

(3B) Despite subsection (1A), the Minister can not decide an area for the mining claim that is more than the area prescribed by regulation.

(4) Where it is found that the area of a mining claim exceeds the prescribed area or the decided area, the mining claim is not thereby invalidated but the following provisions of this subsection shall be complied with.

(5) The chief executive must notify the holder that the land exceeds the prescribed area or decided area.

(6) If at the expiration of 20 business days after the giving of a notice pursuant to subsection (5)—

(a) the mining claim has not been varied, by agreement between the Minister and the holder, to reduce the area of land to or to less than the prescribed area or decided area; or

(b) the holder has not made application to the Land Court to determine whether the subject area exceeds the prescribed area or decided area or to determine the variation thereof to reduce the area to the prescribed area or decided area;

the Minister shall without further notice cancel the mining claim.

54 Mining claim over reserve only with consent

A mining claim shall not be granted over land that is a reserve except with—

- (a) the consent of the owner of that land; or
- (b) the consent of the Governor in Council.

55 Restriction upon number of mining claims

- (1) A person shall not at any time be the holder of or have an interest, direct or indirect, in more than 2 mining claims.
- (2) The Minister may call upon a person to show cause why a mining claim or interest held by that person in contravention of subsection (1) should not be cancelled.
- (3) If the Minister is not satisfied that there is good reason why the Minister should not do so, the Minister may cancel the mining claim or interest.
- (4) Where, pursuant to subsection (3) an interest only in a mining claim is cancelled, each holder of any other interest in the mining claim shall hold an interest in the mining claim in the same proportion that the holder's original interest bears to the aggregate of the remaining interests.

56 Marking out land before application for grant of mining claim

- (1) The holder of a prospecting permit or exploration permit who wishes to apply for the grant of a mining claim must mark out under section 57, the boundary of the land proposed to be the subject of the application.
- (2) The fact that the land marked out pursuant to subsection (1) is not a rectangular shape does not constitute a failure to comply with this section.

57 Manner of marking out land proposed to be subject of mining claim

- (1) Before making an application for the grant of a mining claim, the intending applicant or some person authorised on the intending applicant's behalf shall mark out the land by inserting firmly in the ground at each and every corner of the land applied for a round post which shall be not less than 10cm in diameter or a square post each side of which shall be not less than 10cm in width standing at least 1m above the surface and sunk not less than 50cm in the ground.
- (2) The part of each post above the surface shall be painted white.
- (3) Where posts are of timber construction they shall be barked and dried of sap before use.
- (4) One of the posts shall be selected to be the datum post for the purpose of the commencement of the description and from which a cadastral surveyor shall commence any survey of the land.
- (5) There shall be engraved or in some way durably marked on each post the applicant's initials and surname (or of 1 applicant should there be more than 1) and the numerals indicating the date on which the subject land was marked in accordance with this section and the engraving or marking shall be so maintained until action is taken in accordance with section 64B(1)(a) and (b).
- (6) Where the applicant is a company the initials of that company (or of any 1 company should there be more than 1) shall be engraved and marked as prescribed herein on the posts.
- (7) If a post can not be inserted in the manner prescribed there shall be erected a cairn of stones at least 50cm high in the place where the post should have been inserted.
- (8) If cairns of stones are erected there shall be engraved or in some way durably marked thereon the particulars which would have been required had a post been inserted.
- (9) Where it is not practicable to insert a post or erect a cairn of stones in the manner prescribed at every corner of the land applied for, there may be inserted a datum post only and

compass bearings shall be taken and distances measured, as required by section 62.

- (10) Where it is impossible to insert a datum post or erect a cairn of stones in the manner prescribed by subsection (1) the land shall be marked by measuring a distance on a given bearing from a reference post to a point which shall be the nominal position of the starting point and from which any survey of the land shall commence and the reference post shall in all respects comply with the provisions of this Act relating to a datum post, except the provisions relating to position.

58 Consent of chief executive required to certain marking out of land

- (1) Where the land the subject of a mining claim is marked out in accordance with section 57(9) or (10) the consent of the chief executive is required and the chief executive's consent may be given at any time prior to the issue of the mining claim application certificate for the mining claim.
- (2) Where consent is so given the chief executive shall note the register accordingly.

59 Time for application for grant of mining claim

The holder of a prospecting permit or exploration permit who marks out the boundary of land in accordance with this chapter, may, during the currency of the holder's permit but within 5 business days of so marking out, apply in the prescribed manner for the grant of a mining claim over that land.

Note—

For other relevant provisions about applications, see section 386O.

60 If application for mining claim not made, is rejected or abandoned, posts etc. to be removed

- (1) A person who marks out the boundary of land for the purpose of making an application for the grant of a mining claim shall

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remove or cause to be removed forthwith all posts, cairns and other things used by the person to mark out the boundary (not being a survey mark or other thing required by any other Act not to be removed)—

- (a) where the person has not made the application within 5 business days of the marking out, upon the expiration of those 5 business days; or
 - (b) where the person has made the application as prescribed, upon the rejection or abandonment of the application.
- (2) For the purpose of removing posts, cairns and other things in compliance with subsection (1) a person may enter the relevant land.

61 Application for grant of mining claim

- (1) An application for the grant of a mining claim shall—
- (a) be in the approved form;
 - (b) specify the name of each applicant;
 - (c) specify the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants;
 - (d) describe all parcels of land the whole or part of which are the subject of the application and specify the names and addresses of the owner or owners of the land and of land which is to be used as access thereto;
 - (e) identify in the prescribed manner the boundaries of the land applied for;
 - (f) describe and identify in the prescribed manner the land proposed to be used as access from a point outside the boundary of the land the subject of the mining claim acceptable to the chief executive to the land applied for;
 - (g) be accompanied by a sketch, map or other graphic representation acceptable to the chief executive setting

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- out the boundaries of the land referred to in paragraphs (e) and (f);
- (h) identify the mineral or minerals in respect of which the mining claim is sought;
 - (i) be lodged;
 - (j) be accompanied by each of the following—
 - (i) proof to the satisfaction of the chief executive of the identity of the applicant;
 - (ii) such additional copies of the application and other documents lodged therewith as the chief executive requires;
 - (iii) the prescribed application fee;
 - (iv) a work program for the activities to be carried out under the mining claim;
 - (v) if the application is for a mining claim for which the Minister is to decide an area under section 53—information about the matters mentioned in section 53(2A) for the mining claim.
- (2) A person who lodges an application for the grant of a mining claim shall provide the chief executive with such information and particulars relating to the requirements set out in subsection (1) as the chief executive requires and on failure to provide that information the chief executive may reject the application.
- (3) The chief executive may reject an application for a mining claim in respect of land the whole or part of which appears, on the evidence available to the chief executive, to be the subject of a mining claim, mineral development licence or mining lease or of an application for the grant of a mining claim, mineral development licence or mining lease.
- (4) For the purposes of subsection (3) where a mining claim, mineral development licence or mining lease is terminated or an application for a mining claim, mineral development licence or mining lease is abandoned or rejected, the relevant land shall be deemed to continue to be subject to the mining

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claim, mineral development licence, mining lease or application until the day next following that termination, abandonment or rejection.

62 Description of mining claim

In an application for the grant of a mining claim—

- (a) the datum post shall be accurately related by measured distances and compass bearings (or other method acceptable to the chief executive) to a survey mark or other fixed and well defined point acceptable to the chief executive; and
- (b) the boundaries of the land the subject of the mining claim shall be described by accurately measured distances and compass bearings on the ground or other method acceptable to the chief executive; and
- (c) the surface access from a point acceptable to the chief executive to the land over which the mining claim is sought shall be described by measured distances and compass bearings along the centre line of that access together with the width of that access or by some other method acceptable to the chief executive.

63 Priority of mining claim applications

- (1) Applications made under this Act for the grant of mining claims for the same land must be considered and decided according to the day on which they are lodged.
- (2) If the applications were lodged on the same day—
 - (a) they take the priority the Minister decides, after considering the relative merits of each application; and
 - (b) the chief executive must give each applicant a written notice stating there is competition for priority between the applicant's application and another application or other applications lodged on the same day as the day on which the applicant's application was lodged.

64 Issue of mining claim application certificate

- (1) This section applies if the chief executive is satisfied the applicant for the grant of a mining claim—
 - (a) is eligible to apply for the mining claim; and
 - (b) has complied with the requirements of this Act for the application.
- (2) The chief executive must give the applicant a certificate in the approved form (a *mining claim application certificate*) for the application.
- (3) The mining claim application certificate must state the following—
 - (a) the number of the proposed mining claim;
 - (b) the date and time the application was lodged;
 - (c) the last day (the *last objection day*) for lodging objections to the application;
 - (d) where the application and any additional documents given to the chief executive about the application may be inspected.
- (4) The last objection day must be at least 20 business days after the certificate is given to the applicant.

64B Applicant's obligations for mining claim application certificate

- (1) The applicant for a proposed mining claim must, within the later of the following periods to end, take the actions mentioned in subsection (2)—
 - (a) 5 business days after the mining claim application certificate is given to the applicant;
 - (b) if the chief executive at any time decides a longer period—the longer period.

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- (2) For subsection (1), the actions are—
 - (a) post a copy of the mining claim application certificate on the datum post of land the subject of the proposed mining claim; and
 - (b) durably engrave or mark the number of the proposed mining claim on the datum post; and
 - (c) give a copy of the certificate, the application for the mining claim and any additional document about the application given by the applicant to the chief executive to—
 - (i) each owner of relevant land; and
 - (ii) the relevant local government; and
 - (d) if the mining claim is for carrying out small scale mining activities—give a copy of the small scale mining code to each entity mentioned in paragraph (c)(i) and (ii).
- (3) The applicant must ensure the copy of the certificate posted on the datum post remains on the post until the end of the last objection day for the application.
- (4) In this section—

relevant land means the land the subject of the proposed mining claim or any other land necessary for access to that land.

64C Declaration of compliance with obligations

- (1) The applicant for a proposed mining claim must, within the later of the following periods to end, give the chief executive a statutory declaration as to the applicant's compliance with section 64B—
 - (a) 5 business days after the last objection day for the application for the mining claim;
 - (b) if the chief executive at any time decides a longer period—the longer period.

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- (2) Until the declaration is given—
- (a) the Minister must not grant the mining claim; and
 - (b) the Land Court may refuse to hear any matter about the application.

64D Continuing obligation to notify

- (1) This section applies for an application for a mining claim, if after the last objection day but before the hearing day for the application, the applicant gives the chief executive an additional document about the application.
- (2) The applicant must give a copy of the document to each entity mentioned in section 64B(2)(c)(i) and (ii).

65 Chief executive may call conference in some cases

- (1) This section applies if—
 - (a) within 5 business days before the last objection day for an application for a mining claim (or a shorter period allowed by the chief executive), an owner of land affected by the application gives the chief executive a written request for a conference, stating the things the owner wants to discuss about the application; or
 - (b) for another reason, the chief executive considers it desirable to call a conference to discuss things about a mining claim or an application for a mining claim.
- (2) If subsection (1)(a) applies, the chief executive must call a conference about the application, by written notice given to the owner of the land and the applicant.
- (3) If subsection (1)(b) applies, the chief executive may call a conference about the mining claim or application, by written notice given to—
 - (a) the owners of land affected by the mining claim or application; or
 - (b) the claim holder or applicant; or

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- (c) anyone else the chief executive considers should be given notice of the conference.
- (4) The notice must state when and where the conference will be held, and what is to be discussed at the conference.
- (5) If the conference is about an application, the conference must be held before the last objection day ends.

66 Who may attend conference

- (1) Apart from the chief executive, anyone given notice of a conference about an application for a mining claim or a mining claim (a *section 65 conference*) may attend and take part in the conference.
- (2) Also, with the chief executive's approval, someone else may be present to help a person attending the conference.
- (3) However, a person may not be represented at the conference by a lawyer.

67 What happens if someone does not attend

The chief executive may hold a section 65 conference even though someone given notice of the conference does not attend the conference.

68 Chief executive's function at section 65 conference

The chief executive must endeavour to help those attending a section 65 conference to reach an early, inexpensive settlement of the things discussed.

69 Agreements and statements at section 65 conference

- (1) If parties to a section 65 conference reach agreement about something discussed at the conference, the parties must—
 - (a) put the agreement into writing; and
 - (b) sign the agreement; and

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- (c) if the agreement is about an application for a mining claim—lodge it with the chief executive on or before the last objection day.
 - (2) A person attending or present at the conference must not disclose or publish anything said at the conference other than in an agreement mentioned in subsection (1).
 - (3) Nothing said by a person at the conference is admissible in a proceeding without the person's consent.

70 Land Court may award costs

- (1) If—
 - (a) a person agrees to attend a section 65 conference but does not attend; and
 - (b) someone else does attend (the *attending party*);the attending party may apply to the Land Court for an order requiring the person who did not attend to pay the attending party's reasonable costs.
- (2) If the Land Court orders a person to pay the attending party's costs, the Land Court must decide the amount of the costs of attending.
- (3) However, the Land Court must not order a person to pay costs if the Land Court is satisfied the person had a reasonable excuse for not attending the conference.

71 Objection to application for grant of mining claim

- (1) An owner of relevant land or the relevant local government may, on or before the last objection day ends, lodge a written objection in the approved form to an application for a mining claim.
- (2) An owner of land who attends a conference about an application for a mining claim may, even though the time for objecting to the application has ended, lodge an objection to the application within 5 business days after—

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- (a) the day the conference ends; or
 - (b) if the applicant did not attend the conference—the day the owner attended the conference.
- (3) An objection referred to in subsection (1) or (2) shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.
- (4) Each objector to an application for the grant of a mining claim shall serve upon the applicant on or before the last date that the objector may lodge an objection to that application a copy of the objection lodged by the objector.
- (5) In this section—
- relevant land* means the land the subject of the proposed mining claim or any other land necessary for access to that land.

71A Objection may be withdrawn

- (1) An objection to an application for a mining claim may be withdrawn by the objector giving written notice of the withdrawal to—
- (a) the chief executive; and
 - (b) if the objection has been referred to the Land Court under section 72—
 - (i) the Land Court; and
 - (ii) the applicant.
- (2) A withdrawal of an objection can not be revoked.

72 Referral to Land Court of application and objections

- (1) This section applies if a properly made objection to an application for the grant of a mining claim is lodged.
- (2) The chief executive must, within 5 business days after the later of the following, refer the application and all properly made objections to it to the Land Court for hearing—

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- (a) the last objection day for the application;
 - (b) if an objection is lodged after the last objection day under section 71(2)—the time for lodging an objection under that subsection ends.
- (3) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the chief executive;
 - (b) the applicant;
 - (c) each person who has lodged a properly made objection to the application.
- (4) The hearing date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.
- (5) If the Land Court fixes a date for the hearing and all properly made objections are withdrawn before the hearing starts, the Land Court may remit the matter to the chief executive.
- (6) In this section—
- properly made objection*** means an objection—
- (a) lodged under section 71; and
 - (b) for which section 71(4) has been complied with; and
 - (c) that has not been withdrawn.

73 Rejection of application for grant of mining claim for noncompliance

- (1) An application for the grant of a mining claim may be rejected by the Minister if the applicant fails to comply with any of the applicable provisions of this chapter.

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- (2) The Minister must, within 5 business days after deciding to reject, give the applicant written notice of the decision and the reasons for it.

74 Grant of mining claim to which no objection is lodged

- (1) This section applies to an application for a mining claim for land if—
 - (a) no-one objects to the application on or before the last objection day; and
 - (b) at least 5 business days have passed since the end of any section 65 conference about the application.
- (2) The Minister may grant a mining claim for the land to an applicant for the mining claim only if the Minister is satisfied—
 - (a) the application complies with this chapter and the requirements of this Act have otherwise been complied with; and
 - (b) any consents needed in relation to the land have been obtained; and
 - (c) if the mining claim is for other than small scale mining activities—an environmental authority for all activities authorised by the proposed mining claim has been issued.

Note—

If the application relates to acquired land, see also section 10AAC.

- (3) Without limiting subsection (2), the Minister may refuse to grant the mining claim if the Minister considers the grant is not in the public interest.
- (4) The Minister must, within 5 business days after the grant, give the holder of the mining claim written notice of the grant.
- (5) The holder must give written notice of the grant to the owners of land covered by the claim.

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- (6) The notice by the holder must be given within 20 business days after the holder receives notice of the grant.

75 Referral to Land Court of application to which no objection lodged

- (1) Despite section 74, the Minister may refer an application for the grant of a mining claim to the Land Court for hearing.
- (2) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the Minister;
 - (b) the applicant;
 - (c) the EPA administering authority.
- (3) The date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.

76 Referral to Land Court of issue of reserve owner's consent

- (1) This section applies if the Minister is not satisfied an owner of a reserve consented to an application for a mining claim over the reserve.
- (2) The Minister must, within 5 business days after the later of the following, refer the issue of consent to the Land Court for its consideration—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.
- (3) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—

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- (a) the Minister;
 - (b) the applicant;
 - (c) the EPA administering authority;
 - (d) the owner of the reserve.
- (4) The date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.

77 Land Court hearing

- (1) The Land Court must hear and decide all issues in relation to an application for a mining claim and any objections to the application at the same hearing.
- (2) At a hearing pursuant to subsection (1) the Land Court shall take such evidence, shall hear such persons and inform itself in such manner as it considers appropriate in order to determine the relative merits of the application, objections and other matters (if any) and shall not be bound by any rule or practice as to evidence.
- (3) The Land Court shall not entertain an objection to an application or any ground thereof or any evidence in relation to any ground if the objection or ground is not contained in an objection that has been duly lodged in respect of the application.
- (4) The Land Court may direct an inspection or view of the land the subject of the hearing.
- (5) Nothing in subsection (1) shall prevent the adjournment from time to time of a hearing.
- (6) Nothing in subsection (1) shall prevent the question of compensation being determined by the Land Court pursuant to section 85.

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- (7) The Minister may require at any time the Land Court to advise the reasons why a hearing under this section has not been finalised.

78 Land Court's determination on hearing

- (1) Upon the hearing by the Land Court under this chapter of all matters in respect of an application for the grant of a mining claim the Land Court may—
- (a) instruct the Minister to reject the application;
 - (b) instruct the Minister to grant the mining claim—
 - (i) upon compliance with any terms and conditions imposed by the Minister on the applicant with respect to the application or the grant; and
 - (ii) in the case where the application relates to land that is a reserve and the consent of the owner of the reserve to the grant has been obtained;
 - (c) in the case where the application relates to land that is a reserve and the owner of the reserve does not consent to the grant of the mining claim—
 - (i) make an instruction referred to in paragraph (a); or
 - (ii) recommend to the Minister that the Governor in Council should consent to the grant of the mining claim and, the terms and conditions (if any) to which the mining claim should be subject.
- (2) The Land Court shall not—
- (a) give an instruction to the Minister directed towards the grant of a mining claim;
 - (b) make a recommendation to the Minister directed towards the giving of consent by the Governor in Council to the grant of a mining claim;
- if it is satisfied that—
- (c) the provisions of this chapter have not been complied with; or

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- (d) the public interest would be adversely affected by the grant of the mining claim; or
 - (e) there is good reason to refuse to grant the mining claim.
- (3) The Land Court may give an instruction or make a recommendation referred to in subsection (2) notwithstanding that the question of compensation has not been determined as provided in section 85.
- (4) The Land Court on the application of an objector or owner may award costs against an applicant for a mining claim who abandons the application or does not pursue the application at a hearing.
- (5) The Land Court on the application of an applicant for a mining claim may award costs against an objector who withdraws the objection or does not pursue the objection at a hearing.

79 Consent to grant of mining claim over reserve by Governor in Council

- (1) After considering a recommendation made pursuant to section 78(1)(c)(ii) by the Land Court in respect of the application for the grant of a mining claim, the Minister shall either reject the application or recommend to the Governor in Council that the Governor in Council consent to the grant.
- (2) The Governor in Council may, upon the recommendation of the Minister, consent (subject to such terms and conditions as the Governor in Council determines) to the grant of a mining claim over land that is reserve.

80 Grant of mining claim at instruction of Land Court or with consent of Governor in Council

- (1) Upon the instruction of the Land Court so to do or the consent to the grant by the Governor in Council, the Minister shall grant the relevant mining claim if the Minister is satisfied that—

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- (a) all necessary consents to the grant have been obtained; and
 - (b) the question of compensation as provided in section 85 has been determined.

Note—

However, if the application relates to acquired land, see also section 10AAC.

- (2) The Minister must, within 5 business days after the grant, give the holder of the mining claim written notice of the grant.
- (3) The holder of the mining claim must give written notice of the grant to the owners of land covered by the claim.
- (4) The notice must be given within 20 business days after the holder receives notice by the holder of the grant.

81 Conditions of mining claim

- (1) Each mining claim shall be subject to each of the following—
 - (a) a condition that the holder shall use the area of the mining claim bona fide for the purpose for which the mining claim was granted and in accordance with this Act and the conditions of the mining claim and for no other purpose;
 - (b) a condition that the holder must—
 - (i) comply with the mandatory provisions of the small scale mining code to the extent the code applies to the holder; and
 - (ii) ensure any other person carrying out an authorised activity for the mining claim complies with the mandatory provisions of the small scale mining code to the extent the code applies to the holder;
 - (c) if the mining claim is granted or renewed for a term of more than 5 years—a condition that the holder must, within 1 month after the fifth anniversary of the following days, give the chief executive a work program

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for activities to be carried out under the mining claim for the remaining term of the claim—

- (i) for a grant of a mining claim—the day the claim is granted;
 - (ii) for a renewed mining claim—the day the term of the renewed claim started;
- (d) a condition that the holder shall furnish at such times and in such manner as required by the Minister reports, returns, documents and statements and other materials whatever;
- (e) a condition that the holder shall maintain the surface of the area of the mining claim in a tidy state during the term of the mining claim;
- (f) a condition that the holder must carry out improvement restoration for the mining claim;
- (g) a condition that prospecting and mining shall be conducted in the area of the mining claim by such method or in such manner as is provided for in or applies in respect of the mining claim;
- (h) a condition that the holder—
- (i) shall not erect any permanent building or other structure whatever; and
 - (ii) prior to the termination of the mining claim, for whatever cause, shall remove any building or structure erected by the holder and all mining equipment and plant;
- on or in the area of the mining claim;
- (i) a condition that without the prior approval of the Minister the holder shall not obstruct or interfere with any right of access had by any person in respect of the area of the mining claim;
- (j) where the mining claim is in respect of land that is a reserve, a condition that the holder shall comply with the terms and conditions upon which the consent of the

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- owner or of the Governor in Council to the grant of the mining claim was given;
- (k) a condition that the holder shall make all payments of compensation and comply with all terms of any agreement or determination relating to compensation at the time or times as agreed or determined pursuant to section 85 or 86;
 - (l) a condition that the holder—
 - (i) shall pay the rental as prescribed; and
 - (ii) shall pay the royalty as prescribed; and
 - (iii) shall pay all local authority rates and charges lawfully chargeable against the holder in respect of the area of the mining claim; and
 - (iv) shall deposit as required by the Minister any security from time to time under this Act;
 - (m) a condition that the holder shall maintain the marking out of the area of the mining claim including any survey pegs during the term of the claim but that boundary posts or cairns need not be maintained after the area has been surveyed;
 - (n) a condition that the holder shall comply with this Act and other mining legislation;
 - (o) such other conditions as are prescribed;
 - (p) such other conditions as the Minister may impose (including such conditions as the Land Court may determine pursuant to this chapter).
- (1AA) Without limiting subsection (1), the Minister may impose a condition on a mining claim if the Minister considers the condition is in the public interest.
- (1A) If a mining claim is granted over land that includes a wild river area, the mining claim is subject to any relevant conditions stated in the wild river declaration for the area.
- (2) If in any case there is conflict between a condition determined by the Land Court and a condition determined by the

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Governor in Council, then to the extent of the conflict the determination of the Governor in Council shall prevail.

- (3) Despite subsections (1) to (2), a condition must not be determined, imposed or prescribed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining claim.
- (4) A mining claim shall contain a condition as to the work commitment required of the holder.
- (5) Notwithstanding subsection (1), if the applicant for a mining claim satisfies—
 - (a) the Minister; or
 - (b) the Land Court when giving an instruction under this chapter; or
 - (c) the Governor in Council when giving consent to the grant of a mining claim under this chapter;

that any of the conditions prescribed in subsection (1)(f), (h)(ii) and (m) should not be imposed the mining claim may be granted without the imposition of that condition or those conditions.

81A Consultation and negotiated agreement conditions

- (1) This section applies if—
 - (a) a negotiated agreement under schedule 1A, part 6, division 4 provides for the grant, renewal or variation of, or another act concerning, a mining claim; and
 - (b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and
 - (c) the Minister consents to the mining claim being subject to 1 or more of the conditions (the *consent conditions*); and
 - (d) the act is done.
- (2) The mining claim is subject to the consent conditions.

81B Other agreement conditions

- (1) This section applies if—
 - (a) a registered indigenous use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mining claim; and
 - (b) the State is a party to the agreement; and
 - (c) the agreement includes a requirement that, if the act is done, the mining claim must be subject to conditions stated in the agreement (the *stated conditions*); and
 - (d) the act is done.
- (2) The mining claim is subject to the stated conditions.

82 Variation of conditions of mining claim

- (1) The conditions to which a mining claim is for the time being subject may be varied by the Minister in terms not inconsistent with this Act upon the agreement in writing of the holder of the mining claim.
- (2) However, the Minister must not vary a condition of a mining claim if—
 - (a) the condition was decided or recommended by the tribunal under the native title provisions; or
 - (b) the condition as varied is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining claim.
- (3) Without limiting subsection (1), the Minister may refuse to vary a condition of a mining claim if the Minister considers the variation is not in the public interest.
- (4) A mining claim that is duly varied pursuant to subsection (1) shall thereafter until again varied, be subject to its conditions as so varied.

- (5) Particulars of every variation of a mining claim shall be endorsed on the certificate of grant, if issued, for that mining claim.

83 Provision of security

- (1) Before a mining claim is granted or renewed, the Minister taking into consideration the work program mentioned in section 61(1)(j)(iv) shall determine the amount of the security to be deposited by the holder of that mining claim as reasonable security for—
 - (a) compliance with the conditions of the mining claim; and
 - (b) compliance with the provisions of this Act; and
 - (c) rectification of any actual damage that may be caused by any person whilst purporting to act under the authority of the mining claim to pre-existing improvements for the mining claim; and
 - (d) amounts (other than penalties) payable to the State under this Act.
- (2) The Governor in Council, when giving consent to the grant of a mining claim pursuant to section 79, may determine the amount of the security to be deposited by the holder of the mining claim.
- (3) The Land Court, when instructing the Minister to grant an application for the grant of a mining claim, may determine the amount of the security to be deposited by the holder of the mining claim.
- (4) Where, in respect of an application for the grant of a mining claim, an amount of security is determined by the Governor in Council pursuant to subsection (2) or by the Land Court pursuant to subsection (3), that amount shall be determined by the Minister as the security pursuant to subsection (1) in respect of that mining claim.
- (5) In respect of an application for the grant of a mining claim, an amount determined by the Governor in Council shall prevail over an amount determined by the Land Court.

- (6) A mining claim shall not be granted or renewed until the applicant for the grant or renewal of the mining claim deposits the security as determined under this section.
- (7) If the Minister is satisfied that any condition of the mining claim or any provision of this Act has not been complied with or that damage referred to in subsection (1)(c) has been caused by any person purporting to act under the authority of the mining claim or who enters land upon the instruction of the holder, the Minister may require that person to take all action necessary to rectify that noncompliance or damage and, save where the person was not the holder and was not upon the land with the holder's approval at the time the damage was caused, may utilise for that purpose the whole or part of the amount of the security deposited in respect of that mining claim.
- (8) If, at any time (whether during, or within 20 business days after the expiration of the term of a mining claim) the amount or any part of the amount deposited under this section is utilised under subsection (7) or the Minister considers that, in view of the damage caused or likely to be caused by any person purporting to act under the authority of the mining claim or upon the instruction of the holder or for any other reason, a further amount of security should be deposited in respect of that mining claim, the Minister shall require the holder or former holder of the mining claim, within the time specified by the Minister to deposit the further security.
- (9) The Minister may make a requirement referred to in subsection (8) notwithstanding that the amount of the security deposited was originally determined by the Governor in Council or the Land Court.
- (10) The Minister may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the Minister or other form of security acceptable to the Minister as the whole or part of the security to be deposited under this section.

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- (11) It shall be a condition of a mining claim that the holder shall deposit security or further security from time to time in accordance with a requirement made as provided by this section.
- (12) If a mining claim terminates, the Minister may, not earlier than 20 business days after the termination, refund the amount of security held for the mining claim, after deducting any amount used under subsection (7).
- (13) The Minister must refund the amount to the holder of the claim or in accordance with any written direction the holder gives to the Minister.
- (14) However, before refunding the security, the Minister may also deduct the amount the Minister considers appropriate to apply in the following order towards—
 - (a) rectifying anything caused by noncompliance with—
 - (i) a condition of the mining claim; or
 - (ii) an order given to the holder by the Minister;
 - (b) amounts (other than penalties) the holder owes to the State under this Act or the conditions of the mining claim (including amounts that became payable before or after the termination of the claim);
 - (c) rates and charges (including interest on unpaid rates and charges) owing to a local government for the mining claim by the former holder.
- (15) Subsection (12) does not limit the Minister's powers under subsection (16).
- (16) If the Minister accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution, insurance company or credit provider as security under this section, any amount payable to the holder must be refunded to the financial institution, insurance company or credit provider and not to the holder of the mining claim to which the security relates.

84 Utilisation of security deposit towards subsequent mining claim

If the holder of a mining claim or an expired mining claim makes application for a further mining claim, the Minister may, instead of refunding the whole or part of the security deposited in respect of the existing or expired mining claim, retain that security or part thereof (together with any further security fixed by the Minister) as the security (in which case it shall be taken to be or to be part of the security) deposited by the applicant in respect of the further mining claim.

85 Compensation to be settled before grant or renewal of mining claim

- (1) A mining claim shall not be granted or renewed unless—
 - (a) compensation has been determined (whether by agreement or by determination of the Land Court) between the applicant and each person who is the owner of land the subject of the application and of any surface access to that land; or
 - (b) there is no person (other than the applicant) who is the owner of any of the land referred to in paragraph (a);and the conditions of the agreement or determination have been or are being complied with by the applicant.
- (2) For the purposes of subsection (1)(a), where the Land Court makes a determination of an amount of compensation, that compensation is not determined until—
 - (a) where no appeal against that determination is lodged within the period prescribed therefor—upon the expiration of that period; or
 - (b) where an appeal is duly lodged against that determination—upon the determination of that appeal.
- (3) An agreement made pursuant to subsection (1)(a) shall not be effective unless and until—
 - (a) it is in writing signed by or on behalf of the parties; and

- (b) it is filed.
- (4) If an agreement referred to in subsection (3) is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.
- (5) At any time before an agreement is made pursuant to this section, a person who could be a party to such agreement may apply in writing to the chief executive to have the Land Court determine the amount of compensation and the terms, conditions and times of payment thereof.
- (7) Upon an application made under subsection (5), or the referral of a matter under section 85A(2), the Land Court shall settle the amount of compensation an owner of land is entitled to as compensation for—
 - (a) deprivation of possession of the surface of land of the owner;
 - (b) diminution of the value of the land of the owner or any improvements thereon;
 - (c) diminution of the use made or which may be made of the land of the owner or any improvements thereon;
 - (d) severance of any part of the land from other parts thereof or from other land of the owner;
 - (e) any surface rights of access;
 - (f) all loss or expense that arises;as a consequence of the grant or renewal of the mining claim.
- (8) In assessing the amount of compensation payable under subsection (7)—
 - (a) where it is necessary for the owner of land to obtain replacement land of a similar productivity, nature and area or resettle himself or herself or relocate his or her livestock and other chattels on other parts of his or her land or on the replacement land, all reasonable costs incurred or likely to be incurred by the owner in obtaining replacement land, the owner's resettlement and the relocation of the owner's livestock or other

chattels as at the date of the assessment shall be considered;

- (b) no allowance shall be made for any minerals that are or may be on or under the surface of the land concerned;
 - (c) if the owner of land proves that the status and use currently being made (prior to the application for the grant or renewal of the mining claim) of certain land is such that a premium should be applied, an appropriate amount of compensation may be determined;
 - (d) loss that arises may include loss of profits to the owner calculated by comparison of the usage being made of land prior to the lodgement of the relevant application for the grant or renewal of a mining claim and the usage that could be made of that land after the grant or renewal;
 - (e) an additional amount shall be determined to reflect the compulsory nature of action taken under this chapter which amount, together with any amount determined pursuant to paragraph (c), shall be not less than 10% of the aggregate amount determined under subsection (7).
- (9) In any case the Land Court may determine the amounts and the terms, conditions and times when payments aggregating the total compensation payable shall be payable.
 - (10) The Land Court's determination of any matter under this section shall be deemed to be an agreement between the parties and shall be given effect accordingly.
 - (11) The Land Court shall give written notice of its determination to all parties and may make such order as to costs between the parties to the determination as it thinks fit.
 - (12) If compensation has not been agreed upon or the question of the amount of compensation earlier referred to the Land Court for determination pursuant to the preceding provisions of this section in respect of an application for the grant of a mining claim—

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- (a) in the case where no objection to the application is duly lodged—upon the expiration of 3 months from the last date for the receipt of objection to the application; or
- (b) in the case where the Land Court instructs the Minister to grant the mining claim—upon the expiration of 3 months from the date of giving the instructions; or
- (c) in the case where the Governor in Council consents to the grant of the mining claim—upon the expiration of 3 months from the date of the giving of that consent;

the chief executive shall refer the question of the amount of compensation payable to the Land Court which shall make a determination in accordance with this section.

- (13) An amount of compensation decided by agreement between the parties or the Land Court is binding on the parties and the parties' personal representatives, successors and assigns.

85A Referral to Land Court of issue of compensation if not settled within 3 months after term of claim ends

- (1) Subsection (2) applies if—
 - (a) compensation is to be determined under section 85(1)(a) for the renewal of a mining claim; and
 - (b) the compensation is not determined within 3 months after the current term of the claim would, apart from section 93A, end.
- (2) The chief executive must refer the issue of compensation to the Land Court for its determination.
- (3) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant;
 - (c) each of the land owners involved in the determination under section 85(1).

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- (4) The date must be at least 20 business days after the day the Land Court fixes the date.

86 Appeal against Land Court's determination upon compensation

- (1) A party aggrieved by a determination of the Land Court made under section 85 may, within 20 business days of the date of that determination or within such further period as the Land Appeal Court, on the application of that party in that behalf prior to the lodgement of the appeal, considers appropriate in any particular circumstances, appeal against the determination to the Land Appeal Court.
- (2) The appeal shall be instituted by, within the time and in the manner prescribed—
- (a) lodging in the Land Court, written notice of appeal which shall include the grounds of appeal; and
 - (b) serving copies of the notice of appeal on the chief executive and each other party.
- (3) The Land Appeal Court shall have jurisdiction to hear and determine an appeal under this section.
- (4) Upon hearing an appeal under subsection (1) the Land Appeal Court may—
- (a) vary the determination of the Land Court in such a way as it thinks just; or
 - (b) disallow the appeal and confirm the determination of the Land Court;
- and may make such order as to costs of the appeal as it thinks fit.
- (5) In deciding an appeal, the Land Appeal Court must consider the things relevant to the appeal that the Land Court was required to consider in making the decision appealed against.
- (6) The Land Appeal Court shall not admit further evidence upon an appeal from a determination of the Land Court under subsection (1) unless—

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- (a) it is satisfied that admission of the evidence is necessary to avoid grave injustice and there is sufficient reason that the evidence was not previously adduced; or
 - (b) the appellant and respondent agree to its admission.
- (7) The determination of the Land Appeal Court on appeal shall be final and conclusive.

86A Security for costs of appeal

- (1) This section applies when an appeal under section 86 is lodged.
- (2) A further step can not be taken in the appeal until security for the costs of the appeal has been lodged under this section.
- (3) The registrar of the Land Court must, within 10 business days, decide the form and amount of the security.
- (4) The registrar must give the appellant written notice of the decision as soon as practicable after making it.
- (5) The appellant must lodge the security in the decided form and amount within 15 business days after the giving of the notice.
- (6) If the appellant does not comply with subsection (5), the appeal lapses.

87 Public trustee may act in certain circumstances

- (1) If there is doubt as to the identity of the owner of land or the owner of land can not be found, the Land Court may determine that the public trustee shall represent the owner for the purpose of any negotiation or proceeding under section 85 or 86.
- (2) Any action taken or thing done or omitted to be done by the public trustee as representative of the owner of land pursuant to subsection (1) shall be taken for all purposes to be taken, done or omitted by that owner.
- (3) Where, pursuant to subsection (2) the public trustee represents an owner of land, for the purposes of this chapter any moneys

paid to the public trustee under any agreement or determination made under section 85 or 86 shall be deemed to have been paid to the owner.

88 Issue of certificate of grant for mining claim

If the Minister grants a mining claim, the chief executive may issue to the applicant for the grant a certificate of grant in the approved form.

89 Reasons for rejection of application for grant of mining claim

If the Minister rejects an application for the grant of a mining claim, the Minister must, within 5 business days after deciding to reject, give the applicant a written notice stating the decision and the reasons for it.

90 Duty of holder of mining claim to mark boundary posts

Unless the area of a mining claim has been surveyed, the holder of a mining claim shall, within 5 business days of the date of grant of the mining claim, engrave or in some way durably mark on every boundary post of the area of the mining claim or cairn erected as prescribed in lieu thereof, the number of that claim and, until the area is surveyed, shall maintain those posts or cairns duly engraved or marked while the mining claim subsists and the area is not surveyed.

91 Initial term of mining claim

- (1) The initial term of a mining claim is the period not greater than 10 years approved by the Minister, unless the claim is sooner terminated.
- (2) Despite subsection (1), the term of the mining claim must not be for a period longer than the period for which compensation has been agreed or determined under section 85 or 86.

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- (3) The initial term of a mining claim commences on the first day of the month that next follows the day the mining claim is granted.
- (4) From the grant of a mining claim to the commencement of the initial term thereof the holder shall have all the entitlements, powers, duties and functions the holder has during the term of the mining claim except section 95 shall not apply.

92 Mining claim may be specified it is not renewable

- (1) If it is considered that the land the subject of the application for the grant or renewal of a mining claim is or will be required for some purpose other than mining, the mining claim may be granted or renewed subject to a condition that the holder is not entitled to have the mining claim renewed.
- (2) Where a mining claim is granted or renewed subject to a condition referred to in subsection (1), the applicant shall be advised the reasons therefor.

93 Renewal of mining claim

- (1) The holder of a mining claim, including a mining claim that is subject to a condition referred to in section 92, may, at least 6 months (or such shorter period as the Minister in the particular case allows) prior to and not more than 12 months before the expiration of the current term of the mining claim, make application for renewal of the mining claim.
- (2) An application for renewal of a mining claim shall—
 - (a) be made in the prescribed way to the Minister;
 - (b) be accompanied by a work program for the activities to be carried out under the renewed mining claim;
 - (c) be accompanied by the prescribed application for renewal fee.
- (3) Subsection (4) applies for an application for renewal of a mining claim if—

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- (a) if the application relates to a mining claim subject to a condition that the holder is not entitled to have the mining claim renewed—
 - (i) the Minister is satisfied the mining claim should be renewed; and
 - (ii) if the condition was imposed by the Governor in Council—the Governor in Council consents to the renewal; and
 - (iii) if the condition was imposed by the Land Court—the Land Court consents to the renewal; and
 - (b) the Minister is satisfied—
 - (i) the holder has complied with the conditions of the mining claim; and
 - (ii) the holder has complied with this Act and other mining legislation applicable to the holder relating to the mining claim; and
 - (iii) the area of the mining claim still contains workable quantities of mineral or mineral bearing ore.
- (4) The Minister must, subject to schedule 1A, part 3, division 5, grant a renewal of the mining claim in the name of the holder for a further term not greater than 10 years.
- (5) The grant must be subject to—
- (a) the conditions of the mining claim; and
 - (b) any other conditions determined by the Minister.
- (6) Despite subsection (4), the further term of the mining claim must not be for a period longer than the period for which compensation has been agreed or determined under section 85 or 86.
- (7) Despite subsection (4), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.

Note—

If the application relates to acquired land, see also section 10AAC.

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- (8) Without limiting subsection (5), the Minister may determine a condition of the renewed mining claim if the Minister considers the condition is in the public interest.
- (9) The Minister shall not reject an application for renewal of a mining claim until the Minister has, by notice in writing in the approved form served on the holder of the mining claim, called upon the holder to show cause within the time specified therein why the application should not be rejected and such cause has not been shown to the satisfaction of the Minister.
- (10) The holder of a renewed mining claim must give written notice of the claim's renewal to the owners of the land in the area of the claim.
- (11) The notice must be given within 20 business days after the holder receives notice of the renewal.

93A Continuation of claim while application being dealt with

- (1) Subsection (2) applies if—
 - (a) a properly made application for renewal of a mining claim is not withdrawn, refused or granted before the claim's expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the claim and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the claim conditions.
- (2) The claim continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- (3) In this section—

properly made application, for renewal of a mining claim, means an application that complies with section 93(2).

93B When term of renewed claim starts

- (1) If a mining claim is renewed before its expiry day ends, the term of the renewed claim starts on the day after the expiry day.
- (2) If the claim is renewed after the expiry day, the term of the renewed claim is taken to have started on the day after the expiry day.

93C When new conditions of renewed claim start

- (1) If a renewed mining claim is subject to conditions (the *new conditions*) different from, or not included in, the claim conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed claim;
 - (b) the day the renewal is granted.
- (2) However, if the claim is continued in force under section 93A, the holder must pay rental on the claim from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mining claim had been renewed on the day after the expiry day.
- (3) Subsection (2) applies even though payment of rental may be a condition of the claim.

93D Renewal of claim must be in name of last recorded transferee

- (1) This section applies if a transfer of a mining claim is registered under section 318AAT—
 - (a) after the date on which an application for renewal of the claim is made; and
 - (b) before the application is decided by the Minister.
- (2) Any renewal granted on the application must be in the name of the transferee under the last transfer registered before the grant of the renewal.

94 Reasons for rejection of application for renewal of mining claim

If the Minister rejects an application for the renewal of a mining claim, the Minister must, within 5 business days after deciding to reject, give written notice to the applicant stating the reasons for rejection.

95 Rental payable on mining claim

- (1) Upon the grant of a mining claim rental shall first be payable thereon with respect to the period from the commencement of the term of the mining claim to 31 August of that year (the *first rental period*) and shall be paid within 20 business days (or such longer period as the Minister in the particular case approves) of the grant of the mining claim.
- (2) The amount of the rental payable in respect of the first rental period shall be an amount that bears to the rental payable for a rental year prescribed pursuant to subsection (4) for the rental year in which the first rental period falls the same proportion that the number of whole calendar months of the first rental period bears to 12.
- (3) In respect of each rental year or part thereof of the term of a mining claim (other than the first rental period) a full rental year's rental shall be payable in advance not later than 31 August of the previous rental year.
- (4) If the full rental payable for a rental year is paid in advance as prescribed by subsection (3), the amount of the rental shall be the amount prescribed under a regulation for that rental year.
- (5) If, for a particular rental year, rental is not paid in advance as prescribed by subsection (3)—
 - (a) the chief executive shall, prior to 30 September of that rental year, notify the holder of and any person holding a recorded interest in the mining claim that the rental has not been paid as prescribed by subsection (3) and of the amount of rental payable as prescribed by paragraph (b); and

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- (b) the amount of the full rental payable for the rental year shall be payable before 1 December of that rental year and shall be an amount equal to the amount prescribed under a regulation for that rental year plus an amount equal to 15% of that prescribed amount.
 - (6) Upon the renewal of a mining claim, no further rental shall be payable in respect of the period that, if the renewal was a grant of a mining claim, would be the first rental period except where that period commences on 1 September.
 - (7) Except as provided in subsection (8), where in any rental year a mining claim is surrendered or terminated through effluxion of time and is not renewed, there shall be refundable to the last holder of the mining claim an amount that bears to the amount of the rental that was paid in respect of that rental year the same proportion that the number of whole calendar months from—
 - (a) the date of surrender or termination; or
 - (b) the date of rejection of the application for renewal;whichever is the later, to 31 August of that rental year bears to 12.
 - (8) No amount shall be refunded pursuant to subsection (7) where a mining claim is surrendered within its first rental period after its original grant.

103 Correction of certificate of grant of mining claim

- (1) If, at any time, the chief executive is of the opinion that a certificate of grant of a mining claim should be corrected by reason that—
 - (a) the boundaries of the area of the mining claim have been more accurately ascertained; or
 - (b) facts have appeared or been established since the grant of the mining claim justifying correction of the certificate to more accurately reflect the holder's entitlements under the claim; or

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(c) the certificate is defective owing to error in its preparation;

the chief executive may correct the certificate and shall record details thereof in the register of mining claims kept by the chief executive and endorse the certificate accordingly.

(2) Where a certificate of grant of a mining claim is corrected under this section the certificate shall be construed and operate as if it had originally been issued as corrected.

104 Replacement of certificate of grant of mining claim

(1) Where the chief executive is satisfied that a certificate of grant of a mining claim should be cancelled and a replacement certificate issued in its place, the chief executive shall cancel the certificate in question and cause a replacement certificate to be issued in its place.

(2) A replacement certificate of grant of a mining claim issued under this section—

(a) shall be the certificate of grant issued in respect of the mining claim concerned in place of the certificate previously issued in respect thereof and cancelled under this section which lastmentioned certificate shall, upon the issue of the fresh certificate, cease to be of any force or effect; and

(b) may bear a form of endorsement which briefly traces the devolution of the title from the original holder of the mining claim to the person appearing as holder thereof at the time the replacement certificate is issued; and

(c) shall bear endorsement of all apparently subsisting mortgages affecting the mining claim and endorsed on the certificate so cancelled; and

(d) shall be delivered to the person who appears to the chief executive to be lawfully entitled to possession thereof.

(3) The chief executive shall cause the certificate so cancelled to be suitably endorsed and a suitable recording made in the

register that a replacement certificate has been issued in its place.

- (4) The cancelled certificate shall be retained by the chief executive.

105 Mining other minerals

- (1) The holder of a mining claim may lodge an application in writing with the Minister for approval to mine specified minerals, being minerals not specified in the mining claim, in respect of the area of the mining claim.
- (2) The application shall be accompanied by the prescribed fee.
- (3) The application and any other application for the grant of a mining lease for the same minerals must be considered and decided according to the day on which they are lodged.
- (4) If the applications were lodged on the same day—
- (a) they take the priority the Minister decides, after considering the relative merits of each application; and
 - (b) the chief executive must give each applicant a written notice stating there is competition for priority between the applicant's application and another application, or other applications, lodged on the same day as the day on which the applicant's application was lodged.
- (5) Upon the Minister approving an application under this section and compliance by the applicant with any conditions imposed by the Minister, the relevant mining claim shall be deemed to include the specified minerals and shall be subject to such additional conditions as are prescribed in respect of such mining claim or as the Minister considers appropriate.
- (6) The Minister shall not approve an application under this section that could adversely affect any conditions imposed in respect of the mining claim by the Land Court or the Governor in Council.

106 Contravention by holder of mining claim

- (1) If the Minister considers that the holder of a mining claim—
 - (a) has carried out activities that are not bona fide for the purposes for which the mining claim was granted; or
 - (b) has failed to pay the royalty or any other moneys payable thereunder (other than rental) or in respect thereof by the due date for payment; or
 - (c) has failed to comply with any condition that is to be observed and performed by the holder under or in respect of the mining claim, other than a condition with respect to matters referred to in subsection (2)(a) or (b);the Minister may—
 - (d) cancel the mining claim; or
 - (e) impose on the holder a penalty not exceeding 100 penalty units.
- (2) If the Minister considers that the holder of a mining claim—
 - (a) in any rental year has failed after notice given to the holder in accordance with section 95(5) to pay before 1 December of that rental year the amount of the rental payable under that section by that date in respect of that mining claim; or
 - (b) has failed to pay a penalty imposed on the holder pursuant to subsection (1)(e) within the time allowed for the payment by the Minister;the Minister may cancel the mining claim.
- (3) The Minister shall not act pursuant to subsection (1) until the Minister has, by notice in writing in the approved form served on the holder of the mining claim, called upon the holder to show cause within the time specified therein why the mining claim should not be cancelled or a penalty imposed and served a copy of the notice on every person who currently holds a recorded interest in respect of the mining claim at the person's address last recorded by the Minister and such cause has not been shown to the satisfaction of the Minister.

- (4) If the Minister pursuant to this section cancels a mining claim, the Minister shall notify the holder accordingly stating the reason for the cancellation.
- (5) The cancellation of a mining claim under this section shall take effect on the day next following the Minister's determination to cancel the mining claim.

107 Surrender of mining claim

- (1) The holder of a mining claim may surrender the mining claim by lodging with the Minister—
 - (a) a notice of surrender in the approved form; and
 - (b) a properly completed royalty return, unless it has already been lodged under section 320(4); and
 - (ba) either—
 - (i) the royalty payable to the State under section 320(3)(a), unless it has already been paid; or
 - (ii) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b); and
 - (c) the fee prescribed under a regulation.
- (3) Upon a surrender of a mining claim, all adjustments between the holder and the Crown in respect of the payment of rental, fees and other moneys shall be at the discretion of the Minister.
- (4) Where any moneys are specified pursuant to subsection (3) as a debt due to the Crown, the Minister may utilise the security deposited in accordance with section 83 for payment thereof.
- (5) Nothing in this section shall prevent the Crown from recovering moneys from a person specified in subsection (3) as liable to pay and unpaid (whether directly or through utilisation of the security deposit) by action in the Land Court.
- (6) In an action under subsection (5) for the recovery of a debt due to the Crown, the production to the Land Court of a certificate by the Minister certifying the amount of that debt

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the debt and the amount thereof.

- (7) Where, at the time when the holder of a mining claim purports to surrender the mining claim, the holder duly makes application for a new mining claim or a mining lease in respect of the whole or part of the area of the current mining claim, the purported surrender shall not take effect unless and until the new mining claim or the mining lease is granted.
- (8) Nothing in section 48 or 232 shall prevent the holder of a mining claim, at the time the holder surrenders the mining claim, from applying for the grant of a mining claim or mining lease over the whole or part of the area of the surrendered mining claim and the grant of the mining claim or mining lease applied for.
- (9) A surrender of a mining claim (other than a surrender referred to in subsection (7)) shall take effect on the day next following its acceptance by the Minister.
- (10) However, the Minister may accept the surrender only if the Minister is satisfied—
 - (a) the holder has complied with the condition to carry out improvement restoration for the mining claim; and
 - (b) any relevant environmental authority has been cancelled or surrendered under the Environmental Protection Act.
- (11) If the Minister is not satisfied the holder has complied with the condition, the Minister may, by written notice, give the holder reasonable directions about carrying out improvement restoration for the mining claim.
- (12) The holder must comply with the directions.
Maximum penalty for subsection (12)—300 penalty units.

108 Abandonment of application for mining claim

- (1) The applicant for the grant of a mining claim may, at any time before the grant of the mining claim, by notice in writing to

the Minister abandon the application in respect of the whole of the land applied for in the application.

- (2) The applicant for the grant of a mining claim who gives a notice referred to in subsection (1) to the Minister shall forthwith serve a copy of that notice on—
 - (a) if the application has been referred to the Land Court under section 72—the Land Court; and
 - (b) all other persons on whom the applicant was required under this Act to give a copy of the mining claim application certificate for the mining claim.
- (3) The abandonment of an application for the grant of a mining claim shall take effect on the day next following its receipt by the Minister.

109 Improvement restoration for mining claim

- (1) This section applies on the termination of a mining claim, other than—
 - (a) by surrender under section 107; or
 - (b) for the granting of a new mining claim or mining lease over the area of the terminated mining claim.
- (2) If the Minister is not satisfied the holder has satisfactorily complied with the condition to carry out improvement restoration for the mining claim, the Minister may, by written notice, give the holder reasonable directions about carrying out the restoration.
- (3) The holder must comply with the directions.
Maximum penalty—300 penalty units.
- (4) The holder and the holder's employees or agents may, to the extent reasonably necessary to comply with the directions—
 - (a) enter land stated in the notice; and
 - (b) bring on to the land vehicles, vessels, machinery and equipment that are approved by the Minister for the purpose.

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110 Use of machinery in mining claim area

- (1) The Governor in Council may, by regulation, declare with respect to a particular mining claim, all mining claims, all mining claim areas in a specified area of the State, all mining claims in respect of a specified mineral or all mining claims in respect of a specified mineral in a specified area of the State—
 - (a) the types of machinery, mechanical devices or other equipment (if any) that may or may not be used for prospecting, hand mining or other mining;
 - (b) the methods by which prospecting or operations for mining may or may not be carried on.
- (2) A person purporting to act under a mining claim to which a declaration under subsection (1) applies must comply with the declaration.
- (3) The Crown shall not be civilly liable on account of the effect of any regulation made pursuant to this section or section 111.

111 Declaration of prohibited machinery in mining claim area

The Governor in Council may by regulation with respect to any part of the State, declare that certain types of machinery, mechanical devices or other equipment may not be used in, on or under the area of any mining claim within that part.

112 Minister may authorise use of prohibited machinery for purposes other than mining etc.

- (1) Despite section 111, the Minister may authorise the use of prohibited machinery for purposes other than prospecting, exploring or mining in, on or under the area of a mining claim within an area specified in a declaration under that section.
- (2) In subsection (1)—

prohibited machinery means machinery, mechanical devices and other equipment specified in the declaration under section 111.

113 Prohibited machinery etc. not to be used on mining claim land

A person shall not, without the written prior authority of the Minister given pursuant to section 112, have or use any machinery, mechanical device or other equipment the use of which has been prohibited by a declaration under section 111 in, on or under the area of a mining claim within an area specified in the declaration.

Maximum penalty—

- (a) for a first offence—200 penalty units;
- (b) for a second offence—400 penalty units;
- (c) for a third or subsequent offence—1000 penalty units.

114 Minerals taken become property of holder of mining claim

All minerals lawfully mined under the authority of a mining claim cease to be the property of the Crown or person who had property therein and become the property of the holder of the mining claim subject however to the rights to royalty payments under this Act of the Crown or any other person.

115 Royalties in respect of minerals taken under mining claim

The holder of a mining claim shall pay in respect of all minerals mined or purported to be mined under the authority of the mining claim, the royalty prescribed pursuant to chapter 11.

116 Appeals about mining claims

- (1) An applicant for a mining claim who is dissatisfied with a decision of the Minister to refuse to grant the mining claim (the *aggrieved person*) may appeal against the decision to the Land Court.

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- (2) A holder of a mining claim who is dissatisfied with any of the following decisions of the Minister (also an *aggrieved person*) may appeal against the decision to the Land Court—
 - (a) a decision to impose a condition on a mining claim;
 - (b) a decision to require an applicant for, or holder of, a mining claim to deposit security;

Note—
For the provision of security, see section 83.

 - (c) a decision about carrying out improvement restoration for the mining claim;
 - (d) a decision to refuse to renew a mining claim.
- (3) However, an applicant may not appeal against a decision of the Minister made in accordance with a consent of the Governor in Council or decision of the Land Court.

117 How to start an appeal

- (1) An appeal is started by filing a written notice of appeal with the chief executive.
- (2) The notice of appeal must be filed within 20 business days after the aggrieved person receives notice of the decision appealed against.
- (3) However, if—
 - (a) the decision did not state the reasons for the decision; and
 - (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (2);the person may make the application within 20 business days after the person is given the statement of reasons.
- (4) In addition, the Land Court may extend the period for filing the notice of appeal.
- (5) The notice of appeal must state the grounds of appeal.

118 Stay of operation of decisions

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

119 Hearing procedures

- (1) In deciding an appeal, the Land Court—
 - (a) is not bound by the rules of evidence; and
 - (b) must observe natural justice.
- (2) An appeal is by way of rehearing.

120 Powers of Land Court on appeal

- (1) In deciding an appeal, the Land Court may—
 - (a) confirm the decision appealed against; or
 - (b) set the decision aside and substitute another decision; or
 - (c) set aside the decision and return the issue to the Minister with directions the Land Court considers appropriate.
- (2) In substituting another decision, the Land Court has the same powers as the Minister.

Example—

The Land Court may decide that an unsuccessful applicant for a mining claim be granted the claim and impose conditions on it.

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- (3) If the Land Court substitutes another decision, the substituted decision is, for this Act, taken to be the decision of the Minister.

121 Effect of termination of mining claim

- (1) This section applies on the termination of a mining claim.
- (2) However, this section (other than subsection (3)) does not apply to a mining claim if the termination is for granting a new mining claim or a mining lease over the same area to the holder of the terminated mining claim.
- (3) The person who was the holder of the terminated mining claim immediately before its termination must immediately remove each post or other thing used to mark the area under this Act (other than a survey mark or anything else required under another Act not to be removed).
- (4) On the termination of a mining claim, the ownership of all mineral and property on the land in the area of the terminated claim divests from the owner and vests in the State.
- (5) However, subsection (4) applies to property only if it was brought on to the area under the terminated claim.

122 Application may be made for approval to remove mineral and property

- (1) This section applies to mineral and property that vests in the State on the termination of a mining claim.
- (2) Anyone who had an interest in the mineral or property immediately before its ownership vests in the State may apply in writing to the chief executive for permission to remove the mineral or property from the land.
- (3) The application—
 - (a) must be made within 20 business days after the mineral or property vests in the State (or a longer period, of not more than 3 months, allowed by the chief executive); and

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- (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease has been made over the land.
 - (4) The chief executive may approve or refuse to approve the application.
 - (5) However, the chief executive must approve the application if the chief executive is satisfied—
 - (a) the person was entitled to the mineral or property immediately before it vested in the State; and
 - (b) there is enough security held for the mining claim to meet the costs for which it was deposited.

Note—

For the provision of security, see section 83.

- (6) The approval may be given on conditions stated in it.
- (7) If the application is approved, the person named in the approval may enter the land and remove mineral or property (other than covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.
- (8) Anything removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mining claim.
- (9) However, mineral divests from the State and forms part of the land if it is not removed before the later of—
 - (a) the end of the time stated in an approval under this section; or
 - (b) 3 months after the termination of the mining claim.

123 Property remaining on former mining claim may be sold etc.

- (1) This section applies if the chief executive has not received, or has received but not granted, an application for approval to

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remove property from the area of a terminated mining claim within 3 months after the claim's termination.

- (2) The chief executive may—
 - (a) sell the property by public auction or in another way; or
 - (b) if the property has no commercial value—dispose of or destroy it.
- (3) Proceeds of a sale are to be applied in the following order towards—
 - (a) the reasonable expenses incurred in the sale;
 - (b) the cost of rectifying actual damage for which an amount of security deposited for the mining claim could have been used but was not used, or was inadequate;
 - (c) any costs or expenses mentioned in the Environmental Protection Act, section 298;
 - (d) amounts owing to the State under this Act by the former holder;
 - (e) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority;
 - (f) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the mining claim;
 - (g) amounts owing to a mortgagee by the former holder under a mortgage registered under this Act over the mining claim.
- (4) Any balance must be paid to the former holder.
- (5) If the chief executive can not decide the identity of, or locate, a person entitled to the proceeds or a part of the proceeds, the chief executive may pay the amount to the public trustee as unclaimed moneys.
- (6) Compensation is not payable for a sale, disposal or destruction under this section.

124 Approval for prospecting or exploring on reserve subject of mining claim application

- (1) The holder of a prospecting permit or exploration permit who makes application for the grant of a mining claim in respect of land that is a reserve and who is unable to obtain the consent of the owner to prospect or explore on that land for the purposes of obtaining information necessary to further the application may apply to the chief executive for permission to so prospect or explore upon that land.
- (2) The chief executive may reject the application or may recommend to the Minister that, subject to the views of the owner being obtained and taken into account, permission be given to the holder to prospect or explore accordingly.
- (3) Where the Minister gives the holder of a prospecting permit or exploration permit permission pursuant to subsection (2), the holder, for as long as the holder complies with any conditions imposed by the Minister, shall be deemed to have the consent of the owner of the relevant land to be on that land for prospecting or exploring purposes until the application for the grant of the mining claim is determined or the Minister otherwise determines.

125 Variation of access to mining claim area

- (1) The holder of a mining claim may apply to the chief executive in the approved form for a variation of the land used or proposed to be used as access in relation to the area of the mining claim.
- (2) An application for a variation of the land used or proposed to be used as access under this section shall be accompanied by—
 - (a) such particulars as are, by sections 61 and 62, required to accompany an application for the grant of a mining claim in so far as those particulars relate to the land used or proposed to be used as access in relation to the area of the mining claim; and
 - (b) the prescribed application fee.

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- (3) Where, in respect of an application for a variation of the land used or proposed to be used as access under this section, the chief executive is not satisfied that the owner of the land proposed to be used as access consents to the use, the chief executive must refer the issue of consent to the Land Court for its consideration.
- (4) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant;
 - (c) the land owner.
- (4A) The date must be at least 20 business days after the day the Land Court fixes the date.
- (5) The Land Court shall hear and determine the matter by determining—
 - (a) that consent to the proposed variation should or should not be given; and
 - (b) if consent should be given, the amount (if any) of compensation payable by the holder in respect of the proposed use of that land as access.
- (6) Subject to subsection (7), the provisions of section 85(7) to (11) apply in respect of a matter referred to the Land Court under this section as if the matter were an application referred to the Land Court under section 85(5).
- (7) In determining compensation payable under subsection (5), allowance shall be made for compensation agreed or determined to be payable in respect of the current land used as access in respect of the mining claim.
- (8) The determination of the Land Court of a matter under this section shall be final and conclusive.
- (9) In respect of an application made under this section, upon—
 - (a) where the proposed access is over land of which there is an owner—

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- (i) lodgement with the chief executive of the consent in writing of the owner or owners of that land; or
 - (ii) where the Land Court determines that consent should be granted, whether with or without compensation, compliance with any terms and conditions imposed by the Land Court to be complied with before consent is given; and
- (b) where the proposed access is over land of which there is no owner, the chief executive determining that the variation is, in the circumstances, appropriate;
- the chief executive shall record the variation of that access in the register and advise the holder and the owner accordingly.
- (10) An agreement made between a holder and an owner of land regarding compensation payable in respect of the proposed use of the land as access in respect of a mining claim as a result of a variation under this section shall not be effective unless and until—
- (a) it is in writing signed by or on behalf of the parties; and
 - (b) it is filed.
- (11) If an agreement referred to in subsection (10) is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.

Chapter 4 Exploration permits

Part 1 Preliminary

126 Blocks and sub-blocks of land

- (1) For the purposes of this Act the surface of the earth shall be deemed to be divided into blocks and sub-blocks.

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- (2) A block shall be the land contained within 2 meridians 5' of longitude apart each meridian being a multiple of 5' of longitude from the meridian of Greenwich and within 2 parallels of latitude 5' apart each parallel of latitude being a multiple of 5' of latitude from the equator.
- (3) A block shall be divided into 25 sub-blocks each sub-block being bounded by 2 meridians 1' of longitude apart and 2 parallels of latitude and 1' of latitude apart.
- (4) Each block and sub-block shall be identified by a means approved for the time being by the chief executive.

127 Land subject to exploration permit

- (1) An exploration permit authorises entry to sub-blocks of land specified therein.
- (2) Subject to subsection (3), an exploration permit shall be granted in respect of specified sub-blocks of land each sub-block to have at least 1 side in common with another sub-block within the subject land.
- (3) If the Minister, on the information contained in the application for an exploration permit, is satisfied that the program of work proposed in the application can be carried out using competent and efficient mineral exploration practices, an exploration permit may be granted for sub-blocks of land that do not have a common boundary.
- (4) Unless otherwise approved by the Minister either generally or in a particular case, the area of land in respect of which an exploration permit may be granted shall not exceed the area prescribed in respect of the mineral or minerals concerned.

128 Only eligible persons to hold exploration permits

An exploration permit shall not be held by a person who is not an eligible person.

129 Entitlements under exploration permit

- (1) During the term of an exploration permit—
- (a) the holder of the exploration permit and any person who acts for the purpose of carrying out any activity authorised by the exploration permit, with or by such vehicles, vessels, machinery and equipment as may be necessary or expedient for the purpose of exploring for any mineral to which the exploration permit applies, may, subject to compliance with schedule 1, enter—
 - (i) any part of the area of the exploration permit that is not the surface area of a reserve; and
 - (ii) with the consent of the owner, or the consent of the Governor in Council, any part of the area of the exploration permit that is the surface area of a reserve;

for the purposes of facilitating that exploration; and

- (b) the holder of the permit may, subject to compliance with this Act, have considered for grant, in priority to all other persons, an application for the grant of a mining claim, mineral development licence or mining lease for all or part of the area of the permit; and
- (c) the holder of the permit may enter the area of the permit for either or both of the following purposes—
 - (i) doing all acts necessary to comply with this Act for an application mentioned in paragraph (b);

Example for paragraph (c)(i)—

The holder of the permit wishes to apply for the grant of a mining lease for the area of the permit. The holder may enter the area to mark out the boundary of the area under section 240.

- (ii) if the application or EIS relates to an application mentioned in paragraph (b), doing all acts necessary to comply with—

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- (A) an application for an environmental authority under the Environmental Protection Act; or
- (B) that Act for an EIS; or
- (C) the *State Development and Public Works Organisation Act 1971* for an EIS.

Example for paragraph (c)(ii)—

The holder of the permit wishes to apply for the grant of a mining lease for the area of the permit. The holder also wishes to apply for an environmental authority for a mining activity that relates to the mining lease under the Environmental Protection Act. The holder may enter the area to carry out an environmental assessment for the environmental authority application under the Environmental Protection Act, section 125(1)(l).

- (2) Notwithstanding subsection (1)(a) the holder of an exploration permit is not required to obtain consent in respect of the entry or being upon land that is a reserve for public road where the entry of or being upon that land is solely as access in respect of the area of the exploration permit.
- (3) An exploration permit authorises a person to enter the surface of restricted land only if—
 - (a) the owner of the land where the relevant permanent building, or relevant feature, is situated consents in writing to entry; and
 - (b) the exploration permit holder gives the consent to the chief executive.
- (4) Consent given pursuant to subsection (3) shall specify the period of the consent and any conditions applicable to the consent and once given that consent can not be withdrawn.
- (5) For the purposes of subsection (1)(a)(ii), the holder of an exploration permit has the consent of an owner of land if that consent in writing has been previously lodged with the chief executive and has not been withdrawn as provided for in subsection (6).

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- (6) Consent referred to in subsection (1)(a)(ii) can only be withdrawn by the owner of the relevant land giving notice in writing to the chief executive and shall only be effective when the Minister accepts the withdrawal or, if not accepted, after the holder of the exploration permit has been given the opportunity by the Minister to apply for the consent of the Governor in Council in lieu of the owner's consent—
- (a) if, within the time allowed by the Minister for the holder to do so, the holder does not apply for that consent, that time expires; or
- (b) if, within the time allowed by the Minister for the holder to do so, the holder applies for that consent, the Governor in Council gives or refuses to give that consent.
- (7) The holder of an exploration permit, and each person who enters or is upon land under the authority of that exploration permit, shall comply with the terms and conditions upon which any consent required to be given under this Act in respect thereof was given by the owner of that land.
- (8) If an owner of land that is a reserve refuses or fails within a reasonable time to give a consent required by subsection (1)(a)(ii) or imposes terms and conditions thereon that the holder of the relevant exploration permit considers to be so harsh as to be unreasonable, the holder of the exploration permit may apply in writing to the Minister who may refuse the application or may recommend to the Governor in Council that consent be given.
- (9) Upon receipt of an application under subsection (6) or (8), the Minister shall seek the views of the owner of the relevant land on the application.
- (10) If the Minister is satisfied that it is unreasonable for an owner of land that is a reserve to refuse to give to the holder of an exploration permit the consent required by subsection (1)(a)(ii), to withdraw consent previously given or to have imposed the terms and conditions upon which that consent

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was given, the Governor in Council may, upon the recommendation of the Minister—

- (a) subject to such terms and conditions as the Governor in Council thinks appropriate, give that consent in lieu of the consent of the owner; or
- (b) set aside or vary as the Governor in Council thinks fit the terms and conditions upon which the consent is subject;

whereupon the owner of the land shall, subject to compliance by the holder of the exploration permit with any terms and conditions set by the Governor in Council, be deemed to have given the consent or, as the case may be, have set aside or varied the terms and conditions in accordance with the Governor in Council's determination.

- (11) The Governor in Council may make a determination under subsection (10) whether or not an owner of land makes any submission to the Minister pursuant to subsection (9).
- (12) The chief executive shall notify the holder of an exploration permit and the owner of land that is a reserve of particulars of any relevant determination made by the Governor in Council pursuant to subsection (10) before any entry of that land is made under the authority of the exploration permit except where the entry is in accordance with any consent given by the owner.
- (13) Consent given as required by subsection (1)(a)(ii) may be restricted as to time or to a part only of the land in question.
- (14) The terms and conditions upon which consent required by subsections (1)(a)(ii) and (3) is given shall be deemed to be part of the terms and conditions of the relevant exploration permit.
- (15) For the purpose of exercising his or her entitlements under this part a person who enters or is upon land under the authority of an exploration permit may stay at night thereon and for that purpose may set up temporary accommodation thereon.

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- (16) During the term of an exploration permit, the rights of the holder of the permit relate, and are taken to have always related, to the whole of the area of the permit.

130 Exploration permit to specify minerals sought

- (1) Except where subsection (2) is applied, an exploration permit shall be granted in respect of—
- (a) all minerals other than coal; or
 - (b) coal.
- (2) If, in the exceptional circumstances of a particular case, the Minister considers good reason exists therefor, an exploration permit may be granted in respect of the mineral or minerals specified therein.
- (3) Minerals may be specified by indicating other minerals to which the exploration permit does not apply.

Part 2 Obtaining exploration permit for a mineral other than coal

130A Application of pt 2

This part applies to exploration permits for a mineral other than coal.

131 Who may apply

- (1) An eligible person may apply for an exploration permit (the *proposed permit*) other than for a sub-block—
- (a) over which a current exploration permit authorises exploration for a mineral for which the proposed permit is sought; or

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- (b) that has been the subject of an exploration permit (the *earlier permit*) authorising the exploration for a mineral for which the proposed permit is sought and less than 2 months has passed since the end of the month in which the sub-block ceased to be in—
 - (i) the earlier permit's area; or
 - (ii) if the earlier permit has ended—the former earlier permit's area; or
 - (c) that is or has been the subject of an earlier exploration permit application if the earlier application was for a mineral for which the proposed permit is sought and—
 - (i) the earlier application has not been decided; or
 - (ii) if the earlier application has been refused or abandoned—less than 2 months has passed since the end of the month in which the earlier application was refused or abandoned.
- (2) However, an application can not be made for an exploration permit for a sub-block the subject of a call for EP (non-coal) tenders.

Note—

See section 136A in relation to calls for EP (non-coal) tenders.

- (3) Despite subsection (1)(a), an eligible person may apply for a proposed permit for a sub-block (the *relevant sub-block*) in the area of a current exploration permit if—
- (a) the person is the holder of the current exploration permit; and
 - (b) the person purports to surrender the current exploration permit under section 161(1) and the application for the proposed permit relates to land including the relevant sub-block.
- (4) Despite subsection (1)(b), an eligible person may apply for a proposed permit for a sub-block over which the person held an exploration permit the person had surrendered to be granted a further exploration permit for the sub-block.

132 Exclusion of land from area of exploration permit if subject to other authority under Act

(1) Where, at the time the lodgement of an application for the grant of an exploration permit is accepted, land is the subject of—

- (a) a mining claim, mineral development licence or mining lease; or
- (b) an application for a mining claim, mineral development licence or mining lease;

that land and the surface of that land shall be taken to be excluded from the land specified in the exploration permit—

- (c) in the case of a mining claim, mineral development licence or mining lease referred to in paragraph (a)—for so long as the land remains subject thereto; and
- (d) in the case of an application referred to in paragraph (b)—
 - (i) for so long as the application is not rejected or abandoned; and
 - (ii) if a mining claim, mineral development licence or mining lease is granted, for so long as the land remains subject thereto;

except where the Minister, in exceptional circumstances in the Minister's absolute discretion otherwise determines.

(2) Upon—

- (a) the termination of a mining claim or mining lease granted; or
- (b) the rejection or abandonment of an application for—
 - (i) a mining claim; or
 - (ii) a mineral development licence; or
 - (iii) a mining lease;

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in respect of land within the external boundaries of the area of an exploration permit that land shall become part of the area of the exploration permit except—

- (c) to the extent that the land is the subject of a current mining claim, mineral development licence or mining lease or application for a mining claim, mineral development licence or mining lease; or
 - (d) in the case of a rejection or abandonment of an application for a mineral development licence where the applicant is not the holder of the exploration permit; or
 - (e) where the exploration permit provides otherwise.
- (3) Land (the *relevant land*) does not, under subsection (2), become part of the land in respect of which an exploration permit is granted if—
- (a) the relevant land is non-exclusive land under the native title provisions; and
 - (b) the exploration permit was granted after 23 December 1996.

133 Application for exploration permit

An application for an exploration permit may be made by an eligible person and shall—

- (a) be in the approved form; and
- (b) specify the name of each applicant; and
- (c) specify the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants; and
- (d) identify in the prescribed manner the land in respect of which an exploration permit is sought; and
- (e) specify the mineral or minerals in respect of which the exploration permit is sought; and
- (f) be accompanied by a statement—

- (i) specifying a description of the program of work proposed to be carried out under the authority of the exploration permit, if granted; and
 - (ii) specifying the estimated human, technical and financial resources proposed to be committed to exploration work during each year of the exploration permit, if granted; and
 - (iii) detailing exploration data captured by the applicant prior to the application in relation to that land; and
- (g) be accompanied by—
- (i) a statement, separate from the statement mentioned in paragraph (g), detailing the applicant's financial and technical resources; and
 - (ii) if the application relates to land that includes sub-blocks of land that do not have a common boundary—a statement detailing how the work proposed can be carried out using competent and efficient mineral exploration practices; and
 - (iii) if the application relates to an area of land that exceeds the area prescribed for the mineral or minerals—a statement about why the applicant requires more than the prescribed area of land; and
 - (iv) proof of the applicant's identity; and
 - (v) the application fee prescribed under a regulation.

134 Application to be numbered

An application for an exploration permit shall be numbered as prescribed which number, if the exploration permit is granted, shall become the number of that permit.

134A Priority of applications for grant of exploration permit

- (1) Applications for the grant of exploration permits in respect of the same mineral, duly made in respect of or including the

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same land take priority, for the purpose of considering and deciding the applications, according to the day on which they are lodged under this Act.

- (2) If applications are lodged on the same day, they take the priority the Minister decides, after considering the relative merits of each application.
- (3) If an application is lodged by mail, courier service or similar means, it is taken to be lodged on the day the application is received at a place that the application may be lodged under section 386O.

135 Abandonment of application for exploration permit

- (1) The applicant for an exploration permit may, at any time before the grant of the exploration permit, by notice in writing to the chief executive abandon the application in relation to all or part of the land to which it relates.
- (2) The abandonment of an application for the grant of an exploration permit shall take effect on the day next following its receipt by the chief executive.
- (2A) If the application is abandoned in relation to part only of the land to which it relates, the application must be amended to identify the area in relation to which the application is to remain in force (the *remaining area*).
- (2B) The remaining area must be identified in the way required under section 133(d).
- (3) Upon the abandonment of an application for an exploration permit, the Minister, at the Minister's discretion, may retain the whole or part of the application fee.

136 Grant of exploration permit on application

- (1) The Minister may, for an application for an exploration permit under this part—

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- (a) grant an exploration permit, with or without conditions;
or
 - (b) refuse the application.
- (2) However, the Minister must not grant an exploration permit unless the Minister is satisfied the prescribed criteria for the grant of the permit are met.
 - (3) Also, subject to subsection (4), the Minister must not grant an exploration permit for land if all or any part of the land is—
 - (a) in a fossicking area; or
 - (b) subject to an exploration permit for the same mineral.
 - (4) Subsection (3)(a) does not apply if the application for the exploration permit was made, but not decided, before the land became a fossicking area.
 - (5) If the Minister refuses an application for an exploration permit under this part, the Minister may decide whether all or part of the application fee that accompanied the application will be retained.

136A Obtaining exploration permit by competitive tender

- (1) This section applies if the Minister considers it is in the best interests of the State for an exploration permit for a mineral other than coal to be granted for 1 or more sub-blocks by competitive tender.
- (2) The Minister may publish a gazette notice (a *call for EP (non-coal) tenders*) inviting tenders for the exploration permit.
- (3) Part 3, divisions 2 and 3 apply for the call for EP (non-coal) tenders—
 - (a) as if—
 - (i) a reference to a call for EP (coal) tenders were a reference to a call for EP (non-coal) tenders; and

[s 136B]

- (ii) a reference to an exploration permit for coal were a reference to an exploration permit for a mineral other than coal for the sub-blocks the subject of the call; and
 - (b) with any other necessary changes.
- (4) The Minister must not act under subsection (2) for a sub-block that is—
 - (a) in a fossicking area; or
 - (b) the subject of an application for an exploration permit for the same mineral.

Part 3 Obtaining exploration permit for coal

Division 1 Preliminary

136B Application and operation of pt 3

- (1) This part—
 - (a) applies to exploration permits for coal; and
 - (b) provides for a process for the granting of exploration permits for coal—
 - (i) generally, by competitive tender; or
 - (ii) to a person who holds 1 or more exploration permits for coal for the same land that are surrendered immediately before the grant of the permit.
- (2) To remove any doubt, it is declared that an exploration permit for coal can only be granted under this part.

Division 2 Competitive tenders

136C Call for tenders

- (1) The Minister may publish a gazette notice (a *call for EP (coal) tenders*) inviting tenders for an exploration permit for coal.
- (2) The call must state—
 - (a) the proposed area of the permit; and
 - (b) the day and time by which tenders in response to it must be made (the *closing time* for the call); and
 - (c) that the tenders must be lodged before the closing time for the call; and
 - (d) that details about each of the following are available at a stated place—
 - (i) any proposed conditions of the permit that are likely to impact significantly on exploration in the proposed area;
 - (ii) the period of not more than 5 years for which the proposed program of work for the permit must apply;
 - (iii) any criteria (*special criteria*), other than the prescribed criteria, proposed to be used to decide whether to grant the permit, or to decide its provisions;
 - (iv) whether a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call.
- (3) The call may state other relevant matters, including, for example, matters relevant to the special criteria and prescribed criteria.

[s 136D]

- (4) Subsection (2)(d)(i) does not limit the Minister's power under section 136K to decide conditions of the exploration permit if it is granted.
- (5) However, the Minister must not act under this section for land if all or any part of the land is—
 - (a) in a fossicking area; or
 - (b) the subject of an application for an exploration permit for the same mineral.

136D Right to tender

- (1) An eligible person may, by a tender made under section 136E, tender for a proposed exploration permit the subject of a call for EP (coal) tenders.
- (2) However, the tender can not be made—
 - (a) after the closing time for the call; or
 - (b) for only part of the area of the proposed exploration permit.

136E Requirements for making tender

A tender for an exploration permit for coal must—

- (a) be in the approved form; and
- (b) be accompanied by a statement—
 - (i) specifying a description of the program of work proposed to be carried out under the authority of the exploration permit, if granted; and
 - (ii) specifying the estimated human, technical and financial resources proposed to be committed to exploration work during each year of the exploration permit, if granted; and

-
- (c) be accompanied by a statement, separate from the statement mentioned in paragraph (b), detailing the tenderer's financial and technical resources; and
 - (d) be accompanied by the following—
 - (i) a statement, separate from the statements mentioned in paragraphs (b) and (c), about how and when the tenderer proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the proposed exploration permit are, or are likely to be, carried out;

Note—

See section 140A for obligations about consulting with particular owners and occupiers.

- (ii) proof of the tenderer's identity;
- (iii) the application fee prescribed under a regulation;
- (iv) if a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call—the tenderer's cash bid.

136F Right to terminate call for tenders

- (1) The Minister may, by gazette notice, terminate a call for EP (coal) tenders at any time before deciding to grant an exploration permit to an eligible 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.
- (3) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the termination.
- (4) However, subject to sections 136H(4) and 136J(4), the Minister must refund any tender security given by the tenderer.

[s 136G]

136G Amendment of tender

- (1) This section provides for the amendments that can be made to a tender in response to a call for EP (coal) tenders.
- (2) A proposed program of work included in the tender may be amended at any time until, but not after, the tenderer has become the preferred tenderer for the call.
- (3) The tender may be amended, other than as provided by subsection (2), at any time until, but not after, the closing time for the call.
- (4) However, subsection (3) does not apply if—
 - (a) the tenderer is a company; and
 - (b) the change is only a change of name of the tenderer; and
 - (c) the tenderer's Australian company number and Australian registered business name have not changed.

136H Withdrawal of tender

- (1) A person who has lodged a tender in response to a call for EP (coal) tenders may lodge a notice withdrawing the tender at any time before the relevant exploration permit is granted.
- (2) The withdrawal takes effect when the notice is lodged.
- (3) If the preferred tenderer's tender is withdrawn under this section, the withdrawal does not affect the Minister's power to appoint another tenderer, from the tenders made in response to the call, to be the preferred tenderer.
- (4) If a tender is withdrawn under this section, the Minister may, if the Minister considers it reasonable in the circumstances, retain the whole or part of any tender security given by the tenderer.

Division 3 Deciding tenders

136I Process for deciding tenders

- (1) Subject to section 136K(2) and (3), any process the Minister considers appropriate may be used to decide a call for EP (coal) tenders, including, for example—
 - (a) a process appointing a preferred tenderer on the tenders made in response to the call (whether or not involving a cash bid component); or
 - (b) a process involving short-listing a group of possible preferred tenderers and inviting them to engage in another round of tendering before appointing a preferred tenderer from that group.
- (2) Without limiting subsection (1), the Minister may give a tenderer a notice requiring the tenderer to give the Minister, within the reasonable period stated in the notice, information the Minister reasonably requires to assess the tender.

136J Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for EP (coal) tenders to—
 - (a) pay any amounts necessarily incurred, or to be incurred, to enable the exploration permit to be granted; and
Example—

amounts required to comply with the Commonwealth Native Title Act, part 2, division 3, subdivision P
 - (b) do all or any of the following within a stated reasonable period—
 - (i) pay the rental for the first year of the term of the permit under section 138;
 - (ii) give, under section 144, security for the permit.

[s 136K]

- (2) If a preferred tenderer does not—
 - (a) comply with a requirement under subsection (1); or
 - (b) do all things reasonably necessary to allow an exploration permit for coal to be granted to the tenderer;the Minister may revoke the tenderer's appointment as the preferred tenderer.
- (3) However, before acting under subsection (2), the Minister must give the preferred tenderer a reasonable opportunity to provide reasons for, and rectify, the tenderer's failure to comply with a requirement under subsection (1) or (2)(b).
- (4) If the Minister revokes the appointment of the tenderer as the preferred tenderer under this section, the Minister may—
 - (a) retain the whole or part of any tender security given by the tenderer, if the Minister considers it reasonable in the circumstances; and
 - (b) appoint another tenderer to be the preferred tenderer.

136K Deciding whether to grant exploration permit

- (1) The Minister may, after the closing time for the call for EP (coal) tenders—
 - (a) grant an exploration permit for coal to 1 tenderer, with or without conditions; or
 - (b) refuse to grant any exploration permit for coal.
- (2) However, the Minister must not grant the exploration permit unless the Minister is satisfied the prescribed criteria for the grant of the permit are met.
- (3) Also, in deciding whether to grant an exploration permit or deciding its provisions, the Minister must consider any special criteria for the call.

136L Notice to unsuccessful tenderers

- (1) After a call for EP (coal) tenders has been decided, each tenderer not granted the exploration permit must be given notice of the decision.

Note—

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

- (2) Subject to sections 136H(4) and 136J(4), the Minister must refund any tender security given by the tenderer.

Division 4 Obtaining exploration permit following surrender

136M Application for exploration permit for surrendered exploration permits

- (1) This section applies if the holder of an exploration permit for coal intends to surrender the permit.
- (2) The holder may apply for a new exploration permit for the whole or part of the area of the exploration permit to be surrendered.
- (3) The application must be made in the same way an application for an exploration permit is made under section 133.
- (4) The Minister may give the applicant a notice requiring the applicant to give the Minister information the Minister reasonably requires to assess the application.
- (5) If the information is not given to the Minister within the reasonable period stated in the notice, the Minister may refuse the application.
- (6) An application for an exploration permit under this section must be numbered in the way prescribed under a regulation and the number, if the permit is granted, must become the number of that permit.

[s 136N]

136N Grant of exploration permit for surrendered exploration permits

- (1) The Minister may, for an application for an exploration permit under section 136M—
 - (a) grant the exploration permit, with or without conditions;
or
 - (b) refuse the application.
- (2) However, the Minister must not grant an exploration permit under this section unless the Minister is satisfied the prescribed criteria for the grant of the permit are met.
- (3) Also, subject to subsection (4), the Minister must not grant an exploration permit for land if all or any part of the land is in a fossicking area.
- (4) Subsection (3) does not apply if the application for the exploration permit was made, but not decided, before the land became a fossicking area.
- (5) If the Minister refuses the application, the Minister may decide whether all or part of the application fee that accompanied the application will be retained.

Part 4 Other provisions about exploration permits

137 Prescribed criteria for grant of exploration permit

- (1) This section states the criteria (*prescribed criteria*) for the grant of an exploration permit under part 2 or 3.
- (2) The criteria are as follows—
 - (a) the requirements of this Act have been complied with;
 - (b) the applicant is an eligible person;

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- (c) the applicant has paid rental for the first year of the term of the exploration permit under section 138;
 - (d) the Minister has, under subsection (3), approved the program of work that accompanied the application for the exploration permit;
 - (e) the Minister is satisfied the applicant is not disqualified, under subsection (4), from being granted the permit.

Notes—

- 1 Under section 144, an exploration permit can not be granted until the applicant has deposited security decided under that section.
 - 2 If the application relates to acquired land, see also section 10AAC.
- (3) In deciding whether to approve the program of work, the Minister must have regard to the following matters—
 - (a) the extent of the proposed activities in the proposed area of the exploration permit;
 - (b) when and where the applicant proposes to carry out exploration activities in the proposed area of the exploration permit;
 - (c) whether the applicant has the financial and technical capability for carrying out the work.
 - (4) An applicant is disqualified from being granted an exploration permit if—
 - (a) the Minister reasonably believes the applicant has, at any time, contravened a provision of this Act, the repealed Acts or other mining legislation (whether or not the applicant has been charged or convicted of an offence for the contravention); or
 - (b) the applicant is a company and the Minister reasonably believes an officer or employee of the company, or another person who in the Minister's opinion is in a position to control or influence substantially the company's affairs, has, at any time, contravened a provision of this Act, the repealed Acts or other mining legislation (whether or not the officer, employee or

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person, or the company, has been charged or convicted of an offence for the contravention).

137A Content of exploration permit

An exploration permit granted by the Minister must be in the approved form and state the following information—

- (a) the identification number of the permit;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the permit is granted;
- (e) the term and date of commencement of the permit;
- (f) the conditions, other than conditions prescribed by this Act, to which the permit is subject;
- (g) the minerals the subject of the permit;
- (h) the programs of works and studies to be carried out under the permit.

138 Rental payable on exploration permit

- (1) Rental for the first year of the term of an exploration permit (its *first rental period*) is payable before the granting of the permit under part 2 or 3 (the *original permit*).
- (2) On the renewal of an exploration permit, rental is payable—
 - (a) for the first year of the term of the renewed permit; and
 - (b) within 20 business days after the renewal is granted.
- (3) For each year an exploration permit is in force, rental for the whole year (other than its first rental period) is payable on or before the anniversary of—
 - (a) for an original permit—the grant of the permit; or
 - (b) for a renewed permit—the day the term of the renewed permit started.

Note—

For when the term of a renewed permit starts, see section 147D.

- (4) The amount of the rental payable for each year is calculated by multiplying the number of sub-blocks to which the permit applies by the amount prescribed under a regulation for the year.

139 Periodic reduction in area of exploration permit

- (1) Unless the Minister otherwise decides, whether before the grant of an exploration permit or during its term the area of the permit must be reduced—
- (a) by 40% by the end of the first 3 years after the permit is granted; and
 - (b) by a further 50% of the remaining area of the permit by the end of the first 5 years after the permit is granted; and
 - (c) each time the permit is renewed—
 - (i) by a further 40% of the remaining area of the permit by the end of the first 3 years after the day the renewed permit started; and
 - (ii) by a further 50% of the remaining area of the permit by the end of the first 5 years after the day the renewed permit started.

Note—

See section 147D.

- (2) The area remaining after the reduction must consist of whole sub-blocks.

Note—

See, however, section 10AAB(3) if land in the exploration permit is taken under a resumption law.

- (3) If the Minister so directs on reasonable grounds, the reduction of the area of a particular exploration permit may be more or less than that prescribed by subsection (1).

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- (4) At least 20 business days (or such shorter period as the Minister in the particular case allows) prior to the date when, pursuant to subsection (1), the area of an exploration permit is to be reduced, the holder of the permit shall make a submission to the chief executive identifying the sub-blocks of land to which the holder desires the exploration permit to apply after that reduction.

Note—

For other relevant provisions about making a submission, see section 386O.

- (5) If a submission made in accordance with subsection (4) proposes a reduction of the area of the exploration permit and the reduction complies with subsection (1), then on and from the date when the area is to be reduced, the exploration permit shall apply only in respect of the land specified in the submission.
- (6) If a submission that is made for the purposes of subsection (4) is not made in accordance with subsection (4) or does not comply with subsection (1), then the Minister may determine as the Minister considers reasonable that an exploration permit shall apply on and from the date of the Minister's determination or the date when pursuant to subsection (1) the reduction should take effect, whichever is the later in respect of land specified in the Minister's determination, and on and from that date the exploration permit shall apply only in respect of that land.
- (7) If the holder of an exploration permit fails to make a submission in accordance with subsection (4) the Minister may proceed as provided in subsection (6) or may cancel the exploration permit.
- (8) Compensation is not payable for a reduction in the area of an exploration permit under this section.

140 Voluntary reduction in area of exploration permit

- (1) In addition to the requirement under section 139 to reduce the area of an exploration permit, the holder of the permit may, at any time during its term, make a submission to the chief executive—
 - (a) voluntarily reducing the area of the permit; and
 - (b) identifying the sub-blocks of land to which the holder no longer wants the permit to apply.
- (2) The area remaining after the reduction must consist of whole sub-blocks.

Note—

See, however, section 10AAB(3) if land in the exploration permit is taken under a resumption law.

- (3) The Minister may approve the reduction, with or without conditions, or refuse the reduction.
- (4) If the Minister approves the reduction, the Minister must give the holder a written notice stating—
 - (a) the reduction is approved; and
 - (b) the date of the approval; and
 - (c) if the Minister decides to approve the reduction on conditions—the conditions and reasons for the decision.
- (5) If the Minister refuses the reduction, the Minister must give the holder a written notice stating the reasons for the decision.
- (6) The reduction takes effect on the date it is approved.
- (7) Compensation is not payable for the reduction.

140A Obligation to consult with particular owners and occupiers

- (1) An exploration permit holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the permit are proposed to be carried out or are being carried out.

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- (2) The consultation must be about—
- (a) access; and
 - (b) the carrying out of authorised activities for the exploration permit (including, for example, crossing access land for the permit) to the extent they relate to the owners and occupiers; and
 - (c) the exploration permit holder's compensation liability to the owners or occupiers.

Note—

For the holder's compensation liability, see schedule 1, section 13(2).

141 Conditions of exploration permit

- (1) Each exploration permit shall be subject to—
- (aa) a condition that the holder must—
 - (i) comply with the mandatory provisions of the land access code and the small scale mining code to the extent the codes apply to the holder; and
 - (ii) ensure any other person carrying out an authorised activity for the exploration permit complies with the mandatory provisions of the land access code and the small scale mining code; and
 - (a) a condition that the holder shall carry out such programs of work and such studies for the purposes for which the exploration permit was granted and in accordance with this Act and the conditions of the exploration permit and for no other purpose; and
 - (b) a condition that the holder must carry out improvement restoration for the exploration permit; and
 - (c) a condition that the holder prior to the termination for whatever cause of the exploration permit shall remove all equipment and plant on or in the area of the

exploration permit unless otherwise authorised by the Minister; and

- (d) a condition that without the prior approval in writing of the Minister the holder shall not obstruct or interfere with any right of access had at any time during the term of the exploration permit by any person in respect of the area of the exploration permit for so long as that right of access is exercised; and
- (e) a condition that the holder must give the following reports to the Minister, in the way and containing the information prescribed under a regulation—
 - (i) an annual report, given each year during the term of the exploration permit, within 1 month after each anniversary of the day the exploration permit takes effect;
 - (ii) a report about a reduction in the area of the exploration permit, given within 2 months after the reduction takes effect;
 - (iii) a report summarising the results of exploration for the whole of the term of the exploration permit, given within 2 months after the exploration permit ends; and
- (f) a condition that the holder must, when the Minister directs, give to the Minister a report—
 - (i) about the exploration permit, that is in addition to any report mentioned in paragraph (f); and
 - (ii) about materials obtained because of the holder's activities under the exploration permit; and

Note—

For other relevant provisions about giving a document to the Minister, see section 386O.

- (g) a condition that the holder—
 - (i) shall pay the rental as prescribed; and

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- (ii) shall deposit as required by the Minister any security from time to time under this Act; and
 - (h) a condition that the holder shall comply with this Act and other mining legislation; and
 - (i) such other conditions as are prescribed; and
 - (j) such other conditions as are determined by the Minister.
- (1A) If an exploration permit is granted over land that includes a wild river area, the exploration permit is subject to any relevant conditions stated in the wild river declaration for the area.
- (4) The holder of an exploration permit and all persons acting under the authority of the permit shall comply with the conditions for the time being of the permit.
- (5) Conditions may be imposed in respect of an exploration permit that require compliance with specified codes.
- (6) Despite subsections (1), (1A) and (5), a condition must not be determined, imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the exploration permit.

141AA Additional conditions of exploration permit relating to native title

- (1) Conditions determined for an exploration permit by the Minister under section 141(1)(j) may include native title protection conditions for the permit.
- (2) Subsection (1) does not limit section 141(1)(j).
- (3) In this section—
native title protection conditions, for an exploration permit, means conditions that—
 - (a) are about ways of minimising the impact of the permit on native title in relation to the land affected by the

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- permit, including ways of accessing the land and ways anything authorised under the permit may be done; and
- (b) are identified in the permit as native title protection conditions for the permit.

141A Consultation and negotiated agreement conditions

- (1) This section applies if—
- (a) a negotiated agreement under schedule 1A, part 6, division 4, provides for the grant, renewal or variation of, or another act concerning, an exploration permit; and
 - (b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and
 - (c) the Minister consents to the exploration permit being subject to 1 or more of the conditions (the *consent conditions*); and
 - (d) the act is done.
- (2) The exploration permit is subject to the consent conditions.

141B Other agreement conditions

- (1) This section applies if—
- (a) a registered indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, an exploration permit; and
 - (b) the State is a party to the agreement; and
 - (c) the agreement includes a requirement that, if the act is done, the exploration permit must be subject to conditions stated in the agreement (the *stated conditions*); and

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- (d) the act is done.
- (2) The exploration permit is subject to the stated conditions.

141C Application to vary conditions of existing permit

- (1) The holder of an exploration permit (the *existing permit*) may apply to the Minister for a variation of the conditions of the existing permit.
- (2) The provisions of this chapter apply, with necessary changes, to an application under subsection (1) as if it were an application under section 133.
- (3) Without limiting subsection (2), in deciding the application, the Minister may—
 - (a) vary the conditions of the existing permit by imposing conditions under section 141(1)(j) in addition to any conditions that apply under the existing permit; and
 - (b) fix an amount of security to be deposited under section 144 in addition to any security for the existing permit.
- (4) Subsections (2) and (3) apply in relation to an exploration permit for coal despite section 130A.
- (5) On the granting of the application, the varied conditions, including imposed conditions mentioned in subsection (3)(a), are included in the existing permit.

144 Provision of security

- (1) Before an exploration permit is granted or renewed or a condition of the permit is varied, the Minister, taking into consideration the program of work, or activities, proposed to be carried out under the permit, must determine the amount of the security to be deposited by the holder of that permit as reasonable security for—
 - (a) compliance with the conditions of the exploration permit; and

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- (b) compliance with the provisions of this Act; and
 - (c) rectification of any actual damage that may be caused by any person whilst purporting to act under the authority of the exploration permit to pre-existing improvements for the exploration permit; and
 - (d) amounts (other than penalties) payable to the State under this Act.
- (2) A person who holds more than 1 exploration permit may elect to deposit a single amount of security for all exploration permits held by the person.
- (3) The Minister is to decide the amount of security to be deposited under subsection (2).
- (4) An exploration permit must not be granted or renewed, and a condition of an exploration permit must not be varied, until the applicant for the grant, renewal or variation deposits the security decided under this section.
- (5) If the Minister is satisfied—
- (a) a condition of an exploration permit has not been complied with; or
 - (b) a provision of this Act has not been complied with in relation to an exploration permit; or
 - (c) someone claiming to act under an exploration permit, or to have entered land on the permit holder's instructions, caused damage mentioned in subsection (1)(c);
- the Minister may require the permit holder to take the steps necessary to stop the noncompliance or repair the damage.
- (6) Also, the Minister may use any of the security deposited by the holder to stop the noncompliance or repair the damage.
- (7) Subsections (5) and (6) do not apply if the holder satisfies the Minister that the person responsible for the noncompliance or damage was not on the land with the holder's approval or on the holder's instructions when the noncompliance or damage happened.

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- (8) If, at any time (whether during or within 20 business days after the expiration of the term of an exploration permit) the amount or any part of the amount deposited under this section is utilised as provided by subsection (5) or (6) or the Minister considers that, in view of the damage caused or likely to be caused by any person purporting to act under the authority of the exploration permit or upon the instruction of the holder or for any other reason, a further amount of security should be deposited in respect of that exploration permit, the Minister shall require the holder or former holder of the exploration permit, within the time specified by the Minister, to deposit the further specified security.
- (9) The Minister may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the Minister or other form of security acceptable to the Minister as the whole or part of the security to be deposited under this section.
- (10) It shall be a condition of an exploration permit that the holder shall deposit security or further security from time to time in accordance with a requirement made as provided by this section.
- (11) Subject to subsections (13) and (14), if an exploration permit terminates, the Minister may, not earlier than 6 months after the termination, refund to the permit holder the amount of security deposited for the permit and not used after deducting the amounts the Minister considers should be kept towards—
 - (a) remedying anything caused by noncompliance with the conditions of the permit or an order or direction given by the Minister to the permit holder; and
 - (b) amounts (other than penalties) the holder owes to the State under this Act (whether they become owing before or after the termination).
- (12) If the Minister accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution, insurance company or credit provider as security under this

section, any amount payable to the holder under subsection (11) must be refunded to the financial institution, insurance company or credit provider and not to the holder of the exploration permit to which the security relates.

- (13) Subsection (11) does not apply to a person who elects to deposit security for all exploration permits held by the person if the person continues to hold an exploration permit for which the security is held.
- (14) However, the Minister may, at the person's written request, reduce the amount of security held for the person's exploration permits to an amount decided by the Minister.
- (15) If the security deposited was money, an amount equal to the reduction is to be refunded to the person or in accordance with any written direction the holder gives to the chief executive.

146 Initial term of exploration permit

- (1) Unless the Minister in the particular case otherwise determines the initial term of an exploration permit shall, unless the permit is sooner surrendered or cancelled, be for a period not exceeding 5 years commencing on the date specified in the permit (being a date not earlier than the date of grant of the permit).
- (2) However, the initial term of an exploration permit granted in response to a call for EP (coal) tenders or EP (non-coal tenders) must be for the required period for the proposed program of work for the permit.
- (3) In this section—
required period, for the proposed program of work for an exploration permit granted in response to a call for EP (coal) tenders or EP (non-coal tenders), means the period that the call states is the period for which the program must apply.

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147 Application for renewal of exploration permit

- (1) The holder of an exploration permit may, within the renewal period, apply to the chief executive for a renewal of the permit.
- (2) The application must be—
 - (a) made in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation; and
 - (c) accompanied by a statement—
 - (i) describing the program of work proposed to be carried out under the authority of the exploration permit, if renewed; and
 - (ii) detailing the estimated human, technical and financial resources to be used to carry out the exploration work during each year of the term of the exploration permit, if renewed; and
 - (iii) detailing the applicant's financial and technical resources for carrying out the exploration work.
- (3) In this section—

renewal period means the period that is—

 - (a) at least 3 months, or any shorter period allowed by the Minister in the particular case, before the current term of the permit expires; and
 - (b) not more than 6 months before the current term expires.

147A Decision on application

- (1) The Minister may renew an exploration permit if the Minister is satisfied of each of the following—
 - (a) the holder of the permit has—

- (i) observed and performed all the covenants and conditions applying to the permit and required to be observed and performed by the holder; and
 - (ii) complied with this Act in relation to the permit;
 - (b) the activities proposed to be carried out during the renewed term are appropriate and acceptable;
 - (c) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate;
 - (d) the public interest will not be adversely affected by the renewal.
- (2) The renewal may be granted for the further term of not more than 5 years decided by the Minister.
- (3) The renewed permit is subject to—
- (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Minister.
- (4) The Minister may refuse to renew the permit if the Minister—
- (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
 - (b) after considering the holder's response, is satisfied the renewal should be refused.
- (5) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
- (a) the decision; and
 - (b) if the decision is to grant the renewal on conditions, or to refuse the renewal, the reasons for the decision.

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147C Continuation of permit while application being dealt with

- (1) This section applies to an application for renewal of an exploration permit if—
 - (a) the application is not withdrawn, refused or granted before the permit's expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the permit and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the permit conditions.
- (2) If the application is a properly made application, the permit continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- (3) If the application is an outstanding request application, the permit continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until either of the following days, whichever happens first—
 - (a) the application is withdrawn;
 - (b) the period in which the action that must be taken under section 386K(1) ends.
- (4) In this section—

outstanding request application, for renewal of an exploration permit, means an application—

 - (a) that complies with section 147(2)(a) and (b), but does not comply with all or part of section 147(2)(c); and
 - (b) for which—
 - (i) the chief executive has given a notice under section 386J(1); and
 - (ii) the period to comply with the notice under section 386K(1) ends after the permit expiry day; and

(iii) the notice has not been complied with.

properly made application, for renewal of an exploration permit, means an application that complies with all of section 147(2).

147D When term of renewed permit starts

- (1) If an exploration permit is renewed before its expiry day ends, the term of the renewed permit starts on the day after the expiry day.
- (2) If the permit is renewed after the expiry day, the term of the renewed permit is taken to have started on the day after the expiry day.

147E When new conditions of renewed permit start

- (1) If a renewed exploration permit is subject to conditions (the *new conditions*) different from, or not included in, the permit conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed permit;
 - (b) the day the renewal is granted.
- (2) However, if the permit is continued in force under section 147C, the holder must pay rental on the permit from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed exploration permit had been renewed on the day after the expiry day.
- (3) Subsection (2) applies even though payment of rental may be a condition of the permit.
- (4) If the application for renewal of the permit is withdrawn or is refused, the chief executive must refund the overpaid rental to the applicant.
- (5) In this section—

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overpaid rental means the annual rental overpaid because of the withdrawal or refusal, worked out proportionately for the whole months remaining after the withdrawal or refusal until the end of the year for which the rental was paid.

147F Renewal of permit must be in name of last recorded transferee

- (1) This section applies if a transfer of an exploration permit is registered under section 318AAT—
 - (a) after the date on which an application for renewal of the permit is made; and
 - (b) before the application is decided by the Minister.
- (2) Any renewal granted on the application must be in the name of the transferee under the last transfer registered before the grant of the renewal.

148 Rights and obligations upon application for mining claim, mining lease or mineral development licence

- (1) The holder of an exploration permit who, during the term of the exploration permit, makes application for the grant of—
 - (a) a mining claim; or
 - (b) a mining lease; or
 - (c) a mineral development licence;

in respect of any part of the area of the exploration permit, shall, during the period from the expiration of the exploration permit until the determination of the application, for so long as the provisions of this Act and the terms and conditions that would apply if the permit were current are complied with, have all the responsibilities, powers, authorities and duties that the holder would have had in respect of the land the subject of the application if the exploration permit was current but during that period no rental shall be payable under this

part in respect of any whole sub-blocks of land the subject of the application.

- (2) The entitlements of the holder of an exploration permit are not reduced or limited by reason only of the holder's application for the grant of a mining claim, mining lease or mineral development licence in respect of any part of the area of the exploration permit.

149 Correction of instrument of exploration permit

If, at any time, the Minister is of the opinion that the instrument of an exploration permit should be corrected by reason that—

- (a) facts have appeared or been established since the grant of the exploration permit justifying a correction of the instrument to more accurately reflect the holder's entitlements under the permit; or
- (b) the instrument is defective owing to error in its preparation;

the Minister may correct the instrument and shall record details thereof in the register of exploration permits kept by the chief executive and endorse the instrument which shall take effect accordingly.

150 Replacement of instrument of exploration permit

- (1) Where the Minister is satisfied that the instrument of an exploration permit should be cancelled and a replacement instrument issued in its place, the Minister shall cancel the instrument and cause a replacement instrument to be issued in its place.
- (2) A replacement instrument of an exploration permit issued under this section—
- (a) shall be the instrument in place of the instrument previously issued and cancelled under this section which

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- lastmentioned instrument shall, upon the issue of the fresh instrument, cease to be of any force or effect; and
- (b) may bear a form of endorsement which briefly traces the devolution of the permit from the original holder of the exploration permit to the person appearing as holder thereof at the time the replacement instrument is issued; and
 - (c) shall be delivered to the person who appears to the Minister to be lawfully entitled to possession thereof.
- (3) The chief executive shall cause the instrument so cancelled to be suitably endorsed and a suitable recording made in the register kept by the chief executive that a replacement instrument has been issued in its place.
- (4) The cancelled instrument shall be retained by the chief executive.

160 Contravention by holder of exploration permit

- (1) If the Minister considers that the holder of an exploration permit—
- (a) has carried out activities that are not bona fide for the purposes for which the exploration permit was granted; or
 - (b) has failed to pay any moneys (other than rental) payable thereunder or in respect thereof by the due date for payment; or
 - (c) has failed to comply with any condition that is to be observed and performed by the holder under or in respect of the exploration permit, other than a condition with respect to matters referred to in subsection (2)(a) or (b); or
 - (d) has failed to report to the Minister upon the discovery of any mineral as required by section 176;
- the Minister may—

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- (e) cancel the exploration permit; or
 - (f) impose on the holder a penalty not exceeding 500 penalty units.
- (2) If the Minister considers that the holder of an exploration permit—
- (a) has failed to pay the rental payable thereunder by the date due for payment; or
 - (b) has failed to pay a penalty imposed on the holder pursuant to subsection (1)(f) within the time allowed for the payment by the Minister;

the Minister may cancel the exploration permit and shall notify the holder of the exploration permit and every person who currently holds a recorded interest in respect of the exploration permit accordingly.

- (3) The Minister shall not act pursuant to subsection (1) until the Minister has, by notice in writing in the approved form served on the holder of the exploration permit, called upon the holder to show cause within the time specified therein why the exploration permit should not be cancelled or a penalty imposed and served a copy of the notice on every person who currently holds a recorded interest in the exploration permit and such cause has not been shown to the satisfaction of the Minister.
- (4) When the Minister pursuant to this section cancels an exploration permit the Minister shall notify the holder and every person who holds a recorded interest in the exploration permit accordingly.
- (5) For the purposes of this section a recorded interest in an exploration permit does not include an associated agreement recorded in the register under chapter 7, part 2.

161 Surrender of exploration permit

- (1) The holder of an exploration permit may, by notice in writing to the chief executive, surrender the permit.

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- (3) A surrender of an exploration permit shall take effect on the day next following its acceptance by the Minister except in respect of sub-blocks the subject of an application for a new exploration permit made under subsection (4).
- (4) Where, at the time when the holder of an exploration permit purports to surrender the permit, the holder duly makes application for a new exploration permit in respect of the whole or part of the area of the exploration permit to be surrendered, the purported surrender shall take effect immediately prior to the grant of the new exploration permit.
- (5) The Minister may accept a surrender of an exploration permit only if the Minister is satisfied—
 - (a) the holder has complied with the condition to carry out improvement restoration for the permit; and
 - (b) any relevant environmental authority has been cancelled or surrendered under the Environmental Protection Act.
- (6) If the Minister is not satisfied the holder has complied with the condition, the Minister may, by written notice, give the holder reasonable directions about carrying out improvement restoration for the exploration permit.
- (7) The holder must comply with the directions.

Maximum penalty for subsection (7)—200 penalty units.

162 Adjustment of rental etc. upon surrender etc. of exploration permit

- (1) Upon a surrender of an exploration permit or the reduction in the area of the permit such adjustments as the Minister approves shall be made with respect to the rental payable under the exploration permit and security deposited and to the terms and conditions of the permit.
- (2) Any moneys payable to the Crown under the adjustments approved by the Minister pursuant to subsection (1) which have not been recovered by utilisation of the security deposit

may be recovered as a debt due and owing to the Crown by action in the Land Court.

- (3) In an action under subsection (2) for recovery of a debt due to the Crown, the production to the Land Court of a certificate by the chief executive certifying the amount of that debt shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the debt and the amount thereof.

163 Access and compensation provisions—sch 1

Schedule 1 contains provisions about access, compensation and related matters for exploration permits.

166 Improvement restoration for exploration permit

- (1) This section applies on the termination of an exploration permit, other than—
 - (a) by surrender under section 161; or
 - (b) for the granting of a new exploration permit, a mining claim, a mineral development licence or a mining lease over the area of the terminated permit.
- (2) If the Minister is not satisfied the holder has satisfactorily complied with the condition to carry out improvement restoration for the exploration permit, the Minister may, by written notice, give the holder reasonable directions about carrying out the restoration.
- (3) The holder must comply with the directions.
Maximum penalty—200 penalty units.
- (4) The holder and the holder's employees or agents may, to the extent reasonable and necessary to comply with the directions—
 - (a) enter land stated in the notice; and
 - (b) bring on to the land vehicles, vessels, machinery and equipment.

167 Production of exploration permit

- (1) A person purporting to be upon land under the authority of an exploration permit shall upon demand made by the owner of that land, an agent of the owner or a person authorised in that behalf by the Minister for proof of the person's authority for being on the land, produce or cause to be produced to the person making the demand the exploration permit or a written authorisation in a form acceptable to the Minister from the holder of the exploration permit authorising the person to enter or be upon that land for exploration purposes.
- (2) For so long as a person fails to comply with a demand lawfully made of the person under subsection (1) the person does not have any of the entitlements under this chapter.
- (3) This section does not apply to prevent a person entering land for the purpose of delivering goods or substances or providing services ancillary to the purpose for which an exploration permit is granted to a person who is lawfully on that land under this chapter.

168 Utilisation of security deposit towards subsequent exploration permit

Where the holder of an exploration permit makes application for a further exploration permit, the Minister, if satisfied that the whole or part of the security deposited in respect of the existing permit is or will be refundable under section 144, notwithstanding that the period of 6 months after the termination of that permit may not have elapsed, may retain that security or part thereof (together with any further security fixed by the Minister) as the security (in which case it shall be taken to be or to be part of the security) deposited by the applicant in respect of the application for the further exploration permit and not refund that amount to the holder.

175 Chief executive may recommend action to ease concerns or other action

- (1) If the chief executive considers an exploration permit holder should take action to ease concerns of an owner of land or another exploration permit holder, or should take some other action, the chief executive may recommend the action to the Minister.
- (2) The Minister may give the exploration permit holder the directions the Minister considers appropriate about the recommended action.
- (3) A failure by the holder to comply with the Minister's directions is taken to be a breach of a condition of the exploration permit.
- (4) If the Minister gives a direction under subsection (2), the chief executive must give a copy to—
 - (a) if the recommended action under subsection (1) relates only to native title protection conditions under section 141AA—any person identified in the conditions as a native title party; or
 - (b) if the recommended action under subsection (1) relates only partly to the native title protection conditions—
 - (i) any person identified in the conditions as a native title party; and
 - (ii) the owner of the land; or
 - (c) otherwise—the owner of the land.
- (5) If the recommended action under subsection (1) is action to ease concerns of an owner of land or another exploration permit holder, the chief executive must give the land's owner and the exploration permit holder written notice of—
 - (a) the substance of any recommendation made to the Minister under subsection (1) or, if the chief executive decides not to make a recommendation, the chief executive's decision; and

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- (b) any other action the chief executive has taken to ease the concerns of the owner or exploration permit holder.

176 Discovery of minerals to be reported

- (1) The holder of an exploration permit shall, within 14 days after discovery of any mineral of commercial value in what appears to be payable quantities within the area specified in the exploration permit by any person acting under the authority of the exploration permit, report to the Minister the fact of that discovery and such other particulars as the Minister requires.
- (2) The Minister may direct the holder of an exploration permit to apply for a mining claim, mineral development licence or mining lease over all or part of the land specified in the exploration permit as the Minister directs in respect of any mineral discovered.
- (3) If the holder of an exploration permit to whom a notice under subsection (2) is given does not apply for a mining claim, mineral development licence or a mining lease as directed within the specified time, the Minister may in the Minister's discretion cancel the exploration permit.
- (4) Any refund of moneys held in respect of an exploration permit that is cancelled pursuant to subsection (3) (including any security deposited) shall be at the Minister's discretion.

176A Application to add excluded land to existing permit

- (1) The holder of an exploration permit (the *existing permit*) may apply to the Minister to add excluded land to the existing permit.
- (2) The provisions of this chapter apply, with necessary changes, to an application under subsection (1) as if it were an application under section 133.
- (3) Without limiting subsection (2), in deciding the application, the Minister may—

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- (a) impose conditions under section 141(1)(j) in addition to any conditions that apply under the existing permit; and
 - (b) fix an amount of security to be deposited under section 144 in addition to any security for the existing permit.
- (4) On the granting of the application, the excluded land is included in the existing permit.
- (5) In this section—

excluded land means land that was the subject of a specific exclusion when the existing permit was granted or that was taken to be excluded under section 132.

177 Reduction of area of exploration permit upon grant of mining claim, mineral development licence or mining lease

Upon the grant of a mining claim, mineral development licence or mining lease consequent upon an application made by the holder of an exploration permit granted in respect of the same area for the same mineral (whether or not at the direction of the Minister) or by an eligible person with the consent of the holder, the area of the exploration permit shall be reduced accordingly and the terms and conditions applying to the exploration permit may be varied as the Minister directs.

178 Discovery etc. of mineral does not vest property

A person who whilst acting under the authority of an exploration permit discovers or takes any mineral does not thereby acquire property therein and shall not dispose of any such mineral except with the consent of the Minister whose consent may be subject to such terms and conditions as the Minister thinks fit (including prescribed conditions as to the payment of royalties).

Chapter 5 Mineral development licences

Part 1 Mineral development licences generally

179 Mineral development licence

Unless otherwise approved by the Minister pursuant to section 226(3), a mineral development licence in respect of a mineral occurrence may be applied for by an eligible person in respect of land which, at the time the application for the grant is made, is in the area of—

- (a) an exploration permit; or
- (b) a mineral development licence;

in respect of the same mineral of which the applicant or, where more than 1 person is the applicant, at least 1 of them is, with or without others, the holder.

180 Only eligible persons to hold mineral development licences

A mineral development licence shall not be held by a person who is not an eligible person.

181 Obligations and entitlement under mineral development licence

- (1) During the currency of a mineral development licence, the holder shall carry out or cause to be carried out such activities as are specified in the licence by the Minister.
- (2) The Minister may specify in a mineral development licence that no activity need be carried out for the term of the licence or for such period as is specified therein.

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- (3) Without in any way limiting the activities that the Minister may specify in a mineral development licence, activities leading to the evaluation and economic development of an ore body by or on behalf of the holder may include—
- (a) geological, geophysical and geochemical programs and other works as are reasonably necessary to evaluate the potential for development of any mineral occurrence of possible economic potential occurring in or on the area of the mineral development licence; and
 - (b) mining feasibility studies; and
 - (c) metallurgical testing; and
 - (d) environmental studies; and
 - (e) marketing studies; and
 - (f) engineering and design studies; and
 - (g) such other activities as the Minister considers appropriate.
- (4) During the currency of a mineral development licence—
- (a) the holder—
 - (i) may carry out or cause to be carried out any activities (including activities referred to in subsection (2)) as are appropriate for the purpose for which the licence is granted; and
 - (ii) may, in relation to the area of the mineral development licence, do all such things as are authorised or were authorised, at the time of the application for the mineral development licence, under the relevant exploration permit then held by the applicant for the mineral development licence; and
 - (b) the holder and any person who acts for the purpose of carrying out any activity authorised by the mineral development licence with or by such vehicles, vessels, machinery and equipment as may be necessary or

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expedient for the purpose may, subject to compliance with schedule 1, enter—

- (i) any part of the area of the mineral development licence that is not the surface area of a reserve; and
- (ii) with the consent of the owner, or the consent of the Governor in Council, any part of the area of the mineral development licence that is the surface area of a reserve;

for any purpose permitted or required under the licence or by this Act; and

- (c) the holder of the mineral development licence, subject to compliance with this Act, may have considered for grant, in priority to all other persons, any number of mineral development licences and mining leases relating to any minerals specified in the mineral development licence in respect of any land in the area of the mineral development licence and may enter that land for the purpose of doing all acts necessary to comply with this Act relating to an application therefor.
- (5) For the purposes of subsection (4)(b)(ii), the holder of a mineral development licence has the consent of an owner of part of the area of the licence if that consent in writing has been previously lodged with the chief executive and has not been withdrawn as provided for in subsection (11).
 - (6) Consent given as required by subsection (4)(b)(ii) may be restricted as to time or to a part of the area in question.
 - (7) Notwithstanding subsection (4)(b) the holder of a mineral development licence is not required to obtain consent in respect of the entry or being upon land in the area of a mineral development licence that is a reserve for public road where the entry of or being upon that land is solely as access in respect of the area of the exploration permit.
 - (8) A mineral development licence authorises a person to enter the surface of land that was restricted land when the application for the licence is lodged only if—

- (a) the owner of the land where the relevant permanent building, or relevant feature, is situated, consents in writing to the application; and
 - (b) the applicant gives the consent to the chief executive.
- (9) Consent given pursuant to subsection (8) shall specify the period of the consent and any conditions applicable to the consent and once given that consent can not be withdrawn.
- (11) Consent referred to in subsection (4)(b)(ii) can only be withdrawn by the owner of the relevant land giving notice in writing to the chief executive and shall only be effective when the Minister accepts the withdrawal or, if not accepted, after the holder of the mineral development licence has been given an opportunity by the Minister to apply for the consent of the Governor in Council in lieu of the owner's consent—
 - (a) if, within the time allowed by the Minister for the holder to do so, the holder does not apply for that consent, that time expires; or
 - (b) if, within the time allowed by the Minister for the holder to do so, the holder applies for that consent, the Governor in Council gives or refuses to give that consent.
- (12) The holder of a mineral development licence, and each person who enters or is upon land under the authority of the licence, shall comply with the terms and conditions upon which any consent required to be given under this Act in respect thereof was given by the owner of that land.
- (13) If an owner of land in the area of a mineral development licence that is a reserve refuses or fails within a reasonable time to give a consent required by subsection (4)(b)(ii) or imposes terms and conditions thereon that the holder of the relevant mineral development licence considers to be so harsh as to be unreasonable, the holder of the mineral development licence may apply in writing to the Minister who may refuse the application or may recommend to the Governor in Council that consent be given.

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- (14) Upon receipt of an application under subsection (11) or (13), the Minister shall seek the views of the owner of the relevant land on the application.
- (15) If the Minister is satisfied that it is unreasonable for an owner of land in the area of a mineral development licence that is a reserve to refuse to give to the holder of a mineral development licence the consent required by subsection (4)(b)(ii), to withdraw consent previously given or to have imposed the terms and conditions upon which that consent was given, the Governor in Council may, upon the recommendation of the Minister—
- (a) subject to such terms and conditions as the Governor in Council thinks appropriate, give that consent in lieu of the consent of the owner; or
 - (b) set aside or vary as the Governor in Council thinks fit the terms and conditions upon which the consent is subject;
- whereupon the owner of the land shall, subject to compliance by the holder of the mineral development licence with any terms and conditions set by the Governor in Council, be deemed to have given the consent or, as the case may be, have set aside or varied the terms and conditions in accordance with the Governor in Council's determination.
- (16) The Governor in Council may make a determination under subsection (15) whether or not an owner of land makes any submission to the Minister pursuant to subsection (14).
- (17) The chief executive shall notify the holder of a mineral development licence and the owner of land in the area of a mineral development licence that is a reserve of particulars of any relevant determination made by the Governor in Council pursuant to subsection (15) before any entry of that land is made under the authority of the mineral development licence except where the entry is in accordance with any consent given by the owner.
- (18) For the purposes of exercising entitlements under this part a person who enters or is upon land under the authority of a

mineral development licence may stay at night thereon and for that purpose may set up temporary accommodation thereon.

- (19) During the currency of a mineral development licence, the rights of the holder of the licence relate, and are taken to have always related, to the whole of the area of the licence.
- (20) The terms and conditions upon which consent required by subsections (4)(b)(ii) and (8) is given shall be deemed to be part of the terms and conditions of the relevant mineral development licence.
- (21) Consent given as required by subsection (4)(b)(ii) may be restricted as to time or to a part only of the area in question.

182 Land is excluded from area of mineral development licence if covered by other authority under Act

- (1) This section applies if—
 - (a) the chief executive accepts lodgement of an application for a mineral development licence for particular land; and
 - (b) all or some of the land applied for in the accepted application is—
 - (i) in the area of an existing mining claim or mining lease; or
 - (ii) land applied for in an earlier application for a mining claim or mining lease.
- (2) Land mentioned in subsection (1)(b) that is within the boundaries of the land applied for in the accepted application, and its surface, (*excluded land*) is taken to be excluded from the area of a mineral development licence granted for the land applied for in the accepted application.
- (3) However, the land is excluded land—
 - (a) if subsection (1)(b)(i) applies—only while it is in the area of an existing mining claim or mining lease; or
 - (b) if subsection (1)(b)(ii) applies—

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- (i) until the earlier application is abandoned or rejected; or
 - (ii) while it is in the area of a mining claim or mining lease granted on the earlier application.
- (4) If excluded land within the boundaries of the area of the mineral development licence ceases to be excluded land, it is taken to be included in the area of the mineral development licence unless the mineral development licence provides otherwise.
- (5) Subsections (3) and (4) do not apply to land that is non-exclusive land under the native title provisions if the mineral development licence was granted after 23 December 1996.

183 Application for mineral development licence

- (1) An application for the grant of a mineral development licence shall—
 - (a) be in the approved form; and
 - (b) specify the name of each applicant; and
 - (c) specify the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants; and
 - (d) describe all parcels of land the whole or part of which are applied for in the application and specify the current use of the land and the names and addresses of the owner or owners of the land and of land which is to be used as access thereto; and
 - (e) identify in the prescribed manner the boundaries of the land applied for; and
 - (f) specify the mineral or minerals in respect of which the mineral development licence is sought; and

- (g) give reasons why the mineral development licence should be granted in respect of the area and shape of the land described in the application; and
- (h) be accompanied by a sketch, map or other graphic representation acceptable to the chief executive setting out the boundaries of any land referred to in paragraphs (d) and (i); and
- (i) describe and identify in the prescribed manner any land proposed to be used as access from a point outside the boundary of the land the subject of the mineral development licence acceptable to the chief executive to any part on the surface of the land sought to be included in the mineral development licence; and
- (j) nominate the term of the mineral development licence sought and give reasons therefor; and
- (k) be accompanied by the consent in writing of each person who alone or with others is the holder of the exploration permit or the mineral development licence in respect of the land and the mineral the subject of the application and is not the applicant; and
- (l) be lodged with the chief executive; and
- (m) be accompanied by a statement—
 - (i) giving a detailed description and technical particulars of the mineral occurrence for which the mineral development licence is sought together with any necessary supporting documents; and
 - (ii) stating any activities proposed to be carried out under the mineral development licence, including, for example, work programs, amounts to be spent and studies to be performed; and
 - (iii) stating the estimated human, technical and financial resources proposed to be committed to authorised activities for the mineral development licence during each year of the licence, if granted; and

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- (n) be accompanied by—
 - (i) a statement, separate from the statement mentioned in paragraph (m), detailing the applicant’s financial and technical resources; and
 - (ii) proof of the applicant’s identity; and
 - (iii) the application fee prescribed under a regulation.
- (2) Only an eligible person may apply for a mineral development licence.

184 Description of mineral development licence

In an application for the grant of a mineral development licence—

- (a) the commencement point for the description shall be accurately related by measured distances and compass bearings (or other method acceptable to the chief executive) to a survey mark or other fixed and well defined point acceptable to the chief executive; and
- (b) the boundaries of the land applied for under the mineral development licence shall be described by accurately measured distances and compass bearings or other method acceptable to the chief executive; and
- (c) the surface access from a point acceptable to the chief executive to the land applied for under the mineral development licence must be described by measured distances and compass bearings along the centre line of that access together with the width of that access or by some other method acceptable to the chief executive; and
- (d) the datum post or commencement point of the description of any land the subject of a mining claim, mineral development licence or mining lease or earlier application for the grant of a mining claim, mineral development licence or mining lease, in any case wholly or partly within the land sought in the current

application for the mineral development licence shall be related by measured distances and compass bearings (or other method acceptable to the chief executive) to the commencement point of the description of the land applied for in the current application.

185 Priority of applications for grant of mineral development licences

Applications for the grant of mineral development licences duly made in respect of or including the same land shall take priority according to the Minister's determination.

186 Minister may grant or refuse application

- (1) The Minister may—
 - (a) grant a mineral development licence, with or without conditions, for all or part of the land the subject of an application (the *relevant land*) for the licence; or
 - (b) refuse the application.
- (2) Without limiting subsection (1), the Minister may refuse to grant a mineral development licence if the Minister considers the grant is not in the public interest.
- (3) The Minister may grant the mineral development licence only if—
 - (a) the Minister is satisfied—
 - (i) the requirements of this Act have been complied with; and
 - (ii) the applicant is an eligible person; and
 - (iii) the applicant has paid rental for the first year of the term of the licence under section 193(1); and
 - (b) the Minister has approved the statements that, under section 183(1), accompanied the application.

Notes—

- 1 Under section 190, a mineral development licence can not be granted until the applicant has deposited security decided under that section.
 - 2 If the application relates to acquired land, see also section 10AAC.
- (4) The Minister must refuse to grant a mineral development licence for land if any part of the land is—
 - (a) in a fossicking area; or
 - (b) subject to a mineral development licence for the same mineral.
 - (5) However, subsection (4)(a) does not apply if the application was made but not decided before the land became a fossicking area.
 - (6) In deciding whether to approve the statements mentioned in subsection (3)(b), the Minister must have regard to—
 - (a) whether there exists to a high degree of definition on or in the land a significant mineral occurrence of possible economic potential; and
 - (b) whether the area of land applied for is appropriate to further investigation of that occurrence; and
 - (c) whether the applicant has the financial and technical capability to comply with the conditions of the mineral development licence under section 194.
 - (7) If a mineral development licence is only granted for part of the relevant land—
 - (a) the application is taken to be refused for the rest of the relevant land; and
 - (b) the Minister must give the applicant written notice of the reasons for the refusal.
 - (8) If the Minister refuses the mineral development licence the Minister may decide whether all or part of the application fee that accompanied the application will be retained.

186A Content of mineral development licence

A mineral development licence granted by the Minister must be in the approved form and state the following information—

- (a) the identification number of the licence;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the licence is granted;
- (e) the term and date of commencement of the licence;
- (f) the conditions, other than conditions prescribed by this Act, to which the licence is subject;
- (g) the minerals the subject of the licence.

187 Holder to notify owners of land of grant or renewal

Within 20 business days, or such longer period as the Minister shall in the particular case allow, after the grant or renewal of a mineral development licence, the holder shall give notice in the approved form to the owners of the parcels of land in the area of the licence.

188 Upon rejection of application, application fee or part may be retained

If the Minister rejects an application for the grant of a mineral development licence the Minister may determine, at the Minister's discretion, whether all or part of the application fee that accompanied the application for the licence shall be retained.

189 Abandonment of application for mineral development licence

- (1) The applicant for the grant of a mineral development licence may, at any time before the grant of the mineral development licence, by notice in writing to the chief executive abandon

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the application in relation to all or part of the area to which it relates.

- (2) The abandonment of an application for the grant of a mineral development licence shall take effect on the day next following its receipt by the chief executive.
- (2A) If the application is abandoned in relation to part only of the land to which it relates, the application must be amended to identify the area in relation to which the application is to remain in force (the *remaining area*).
- (2B) The remaining area must be identified in the way required under section 183(1)(d) and (e).
- (3) Upon the abandonment of an application for the grant of a mineral development licence, the Minister, at the Minister's discretion, may retain the whole or part of the application fee.
- (4) Upon the abandonment of an application for the grant of a mineral development licence taking effect the land that ceases to be comprised in that application shall form part of any existing exploration permit or mineral development licence over that land of which the applicant is holder.

190 Provision of security

- (1) Before a mineral development licence is granted or renewed or a condition of the licence is varied or approval is given to add stated minerals to the licence, the Minister, taking into consideration the matters outlined in section 183(1)(m)(i) and (ii), shall determine the amount of security to be deposited by the holder of that licence as reasonable security for—
 - (a) compliance with the conditions of the licence; and
 - (b) compliance with the provisions of this Act; and
 - (c) rectification of any actual damage that may be caused by any person whilst purporting to act under the authority of the mineral development licence to pre-existing improvements for the licence; and

- (d) amounts (other than penalties) payable to the State under this Act.
- (2) A mineral development licence must not be granted or renewed, a condition of a mineral development licence must not be varied, and an approval must not be given to add stated minerals to a mineral development licence, until the applicant for the grant, renewal, variation or approval deposits the security decided under this section.
- (3) The Minister, if satisfied that any condition of the mineral development licence or any provision of this Act has not been complied with or that damage referred to in subsection (1)(c) has been caused by any person purporting to act under the authority of a mineral development licence or who enters land upon the instruction of the holder, the Minister may require that person to take all action necessary to rectify that noncompliance or damage and, save where the person was not the holder and was not upon the land with the holder's approval at the time the damage was caused, may utilise for that purpose the whole or part of the amount of the security deposited in respect of that mineral development licence.
- (4) If, at any time (whether during or within 20 business days after the expiration of the term of a mineral development licence) the amount or any part of the amount deposited under this section is utilised as provided by subsection (3) or the Minister considers that, in view of the damage caused or likely to be caused by any person purporting to act under the authority of the mineral development licence or upon the instruction of the holder or for any other reason, a further amount of security should be deposited in respect of that mineral development licence, the Minister shall require the holder or former holder of the mineral development licence, within the time specified by the Minister, to deposit the further security.
- (5) The Minister may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the Minister or other form of security acceptable to the Minister

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as the whole or part of the security to be deposited under this section.

- (6) It shall be a condition of a mineral development licence that the holder shall deposit security or further security from time to time in accordance with a requirement made as provided by this section.
- (7) Within 20 business days after termination of a mineral development licence, the person who was the holder shall notify all owners of land in the area of the mineral development licence that any claims for rectification of actual damage to land caused under the authority or purported authority of the mineral development licence must be lodged within 6 months of termination with the chief executive.
- (8) Where a mineral development licence has expired or been terminated, the Minister—
 - (a) in a case where every owner of land in the area of the mineral development licence certifies that there is no actual damage to land that should be rectified—at any time; or
 - (b) in any other case—not earlier than 6 months after the expiration or the termination;

shall, subject to subsection (9), refund to the holder of the licence (or as the holder in writing directs) any security deposited and not utilised as provided by subsection (4) less any amount determined by the Minister to be retained towards—

- (c) rectification of any matters caused by the noncompliance with any of the conditions of the mineral development licence or with any order or direction made or given by the Minister under this Act and directed to the holder; and
- (d) amounts (other than penalties) the holder owes to the State under this Act (whether the amounts became owing before or after the termination).

- (9) If the Minister accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution, insurance company or another credit provider as security under this section, any amount payable to the holder under subsection (8) must be refunded to the financial institution, insurance company or credit provider and not to the holder of the mineral development licence to which the security relates.

192 Initial term of mineral development licence

- (1) The initial term of a mineral development licence shall, unless the licence is sooner terminated, be for a period not exceeding 5 years (or such longer period as the Minister approves) commencing on the first day of the month which next follows the day on which the mineral development licence is granted.
- (2) From the grant of a mineral development licence to the commencement of the initial term thereof the holder shall have all the entitlements, powers, duties and functions that the holder has during the term of the licence except section 193 shall not apply.

193 Rental payable on mineral development licence

- (1) Rental for the first year of the term of a mineral development licence (its *first rental period*) is payable before the granting of the licence under section 186.
- (2) The amount of the rental payable in respect of the first rental period shall be an amount that bears to the rental payable for a rental year prescribed pursuant to subsection (4) for the rental year in which the first rental period falls the same proportion that the number of whole calendar months of the first rental period bears to 12.
- (3) In respect of each rental year or part thereof of the term of a mineral development licence (other than the first rental period) a full rental year's rental shall be payable in advance not later than 31 August of the previous rental year.

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- (4) If the full rental payable for a rental year is paid in advance as prescribed by subsection (3), the amount of the rental shall be the amount prescribed under a regulation for that rental year.
- (5) If, for a particular rental year, rental is not paid in advance as prescribed by subsection (3)—
 - (a) the Minister shall, prior to 30 September of that rental year, notify the holder of and any person holding a recorded interest in the mineral development licence (other than an associated agreement recorded in the register under chapter 7, part 2) that the rental has not been paid as prescribed by subsection (3) and of the amount of rental as prescribed by paragraph (b); and
 - (b) the amount of the full rental payable for the rental year shall be payable before 1 December of that rental year and shall be an amount equal to the amount prescribed under a regulation for that rental year plus an amount equal to 15% of that prescribed amount.
- (6) Upon the renewal of a mineral development licence, no further rental shall be payable in respect of the period that, if the renewal was a grant of a mineral development licence, would be the first rental period, except where that period commences on 1 September.
- (7) Except as provided in subsection (8), where in any rental year a mineral development licence is surrendered or terminated through effluxion of time and is not renewed there shall be refundable to the last holder of the mineral development licence an amount that bears to the amount of the rental that was paid in respect of that rental year the same proportion that the number of whole calendar months from—
 - (a) the date of surrender or termination; or
 - (b) the date of rejection of the application for renewal;whichever is the later, to 31 August of that rental year bears to 12.

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- (8) No amount shall be refunded pursuant to subsection (7) where a mineral development licence is surrendered within its first rental period after its original grant.

193A Obligation to consult with particular owners and occupiers

- (1) A mineral development licence holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the licence are proposed to be carried out or are being carried out.
- (2) The consultation must be about—
- (a) access; and
 - (b) the carrying out of authorised activities for the mineral development licence (including, for example, crossing access land for the licence) to the extent they relate to the owners and occupiers; and
 - (c) the mineral development licence holder's compensation liability to the owners or occupiers.

Note—

For the holder's compensation liability, see schedule 1, section 13(2).

194 Conditions of mineral development licence

- (1) Each mineral development licence shall be subject to—
- (aa) a condition that the holder must—
 - (i) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and
 - (ii) ensure any other person carrying out an authorised activity for the mineral development licence complies with the mandatory provisions of the land access code; and

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- (a) a condition that the holder shall carry out such activities (if any) for which the mineral development licence was granted and in accordance with this Act and the conditions of the mineral development licence and for no other purpose; and
- (b) a condition that the holder must carry out improvement restoration for the mineral development licence; and
- (c) a condition that the holder, prior to the termination of the mineral development licence for whatever cause, shall remove all equipment and plant on or in the area of the mineral development licence unless otherwise authorised in writing by the Minister; and
- (d) a condition that without the prior approval in writing of the Minister the holder shall not obstruct or interfere with any right of access had at any time during the term of the mineral development licence by any person in respect of the area of the mineral development licence for so long as that right of access is exercised; and
- (e) a condition that the holder must give the following reports to the Minister, in the way and containing the information prescribed under a regulation—
 - (i) a report for each year of the term of the mineral development licence, given within 1 month after each day that is an anniversary of the day the mineral development licence takes effect;
 - (ii) a report about a reduction in the area of the mineral development licence, given within 2 months after the reduction takes effect;
 - (iii) a report summarising the results of activities carried out under the mineral development licence during all of its term, given within 2 months after the mineral development licence ends; and
- (f) a condition that the holder must, when the Minister requires, give to the Minister—

- (i) a report about the mineral development licence, that is in addition to any report mentioned in paragraph (f); and
 - (ii) materials obtained because of the holder's activities under the mineral development licence; and
 - (g) a condition that the holder—
 - (i) shall pay the rental as prescribed; and
 - (ii) shall deposit as required by the Minister any security from time to time under this Act; and
 - (h) a condition that the holder shall comply with this Act and other mining legislation; and
 - (i) such other conditions as are prescribed; and
 - (j) such other conditions as are determined by the Minister.
- (2) Without limiting subsection (1), the Minister may determine a condition of a mineral development licence if the Minister considers the condition is in the public interest.
- (3) If a mineral development licence is granted over land that includes a wild river area, the mineral development licence is subject to any relevant conditions stated in the wild river declaration for the area.
- (4) The holder of a mineral development licence and all persons acting under the authority of the licence shall comply with the conditions for the time being of the licence.
- (5) Conditions may be imposed in respect of a mineral development licence that require compliance with specified codes or industry agreements.
- (6) Despite subsections (1), (2), (3) and (5), a condition must not be determined, imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mineral development licence.

[s 194AAA]

- (7) A mineral development licence granted after the commencement of the *Mineral Resources Amendment Act 1998* is subject to a condition that the holder comply with the At Risk agreement.

194AAA Additional conditions of mineral development licence relating to native title

- (1) Conditions determined for a mineral development licence by the Minister under section 194(1)(j) may include native title protection conditions for the licence.
- (2) Subsection (1) does not limit section 194(1)(j).
- (3) In this section—
- native title protection conditions*, for a mineral development licence, means conditions that—
- (a) are about ways of minimising the impact of the licence on native title in relation to the land affected by the licence, including ways of accessing the land and ways anything authorised under the licence may be done; and
- (b) are identified in the licence as native title protection conditions for the licence.

194AA Consultation and negotiated agreement conditions

- (1) This section applies if—
- (a) a negotiated agreement under schedule 1A, part 6, division 4, provides for the grant, renewal or variation of, or another act concerning, a mineral development licence; and
- (b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and
- (c) the Minister consents to the mineral development licence being subject to 1 or more of the conditions (the *consent conditions*); and

- (d) the act is done.
- (2) The mineral development licence is subject to the consent conditions.

194AB Other agreement conditions

- (1) This section applies if—
 - (a) a registered indigenous use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mineral development licence; and
 - (b) the State is a party to the agreement; and
 - (c) the agreement includes a requirement that, if the act is done, the mineral development licence must be subject to conditions stated in the agreement (the *stated conditions*); and
 - (d) the act is done.
- (2) The mineral development licence is subject to the stated conditions.

194AC Application to vary conditions of existing licence

- (1) The holder of a mineral development licence (the *existing licence*) may apply to the Minister for a variation of the conditions of the existing licence.
- (2) The provisions of this part apply, with necessary changes, to an application under subsection (1) as if it were an application under section 183.
- (3) Without limiting subsection (2), in deciding the application, the Minister may—

[s 194A]

- (a) vary the conditions of the existing licence by imposing conditions under section 194(1)(j) in addition to any conditions that apply under the existing licence; and
 - (b) fix an amount of security to be deposited under section 190 in addition to any security for the existing licence.
- (4) Without limiting subsection (3), the Minister may refuse to make a variation mentioned in subsection (3)(a) if the Minister considers the variation is not in the public interest.
- (5) On the granting of the application, the varied conditions, including imposed conditions mentioned in subsection (3)(a), are included in the existing licence.

194A Land Court's jurisdiction for At Risk agreement

- (1) The Land Court has jurisdiction to hear and decide a proceeding about the following matters under a condition of a mineral development licence requiring compliance with the At Risk agreement—
- (a) whether hardship, as defined under the agreement, exists;
 - (b) the fair market value of a property for the purposes of the agreement.
- (2) In a proceeding under subsection (1)(a), the Land Court must consider—
- (a) all relevant matters put before the committee in any mediation under the agreement; and
 - (b) the final recommendation made by the committee in the mediation.
- (3) In a proceeding, a copy of the agreement as at a particular date, certified as a true copy by the chief executive, is admissible as evidence of the agreement at that date until the contrary is proved.
- (4) Despite the *Limitation of Actions Act 1974*, a proceeding must start—

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- (a) for a matter that arose before the commencement of this section—within 1 year after the commencement; or
 - (b) for a matter that arose after the commencement of this section—within 1 year after the committee gives notice of its final recommendation about whether hardship, as defined under the agreement, exists.
- (5) In this section—
- committee* means the committee mentioned in the At Risk agreement.

197 Application for renewal of mineral development licence

- (1) The holder of a mineral development licence may, within the renewal period, apply to the Minister for a renewal of the licence.
- (2) The application must be—
 - (a) made in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation; and
 - (c) accompanied by a statement—
 - (i) describing the program of work proposed to be carried out under the authority of the mineral development licence, if renewed; and
 - (ii) detailing the estimated human, technical and financial resources to be used to carry out activities under the mineral development licence during each year of the term of the mineral development licence, if renewed; and
 - (iii) detailing the applicant's financial and technical resources for carrying out the activities under the mineral development licence, if renewed.
- (3) In this section—

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renewal period means the period that is—

- (a) at least 6 months, or any shorter period allowed by the Minister in the particular case, before the current term of the permit expires; and
- (b) not more than 1 year before the current term expires.

197A Decision on application

- (1) The Minister may renew a mineral development licence if the Minister is satisfied of each of the following—
 - (a) the holder of the licence has complied with—
 - (i) the licence; and
 - (ii) this Act in relation to the licence;
 - (b) there exists on or in the land in relation to which the application is made a mineral occurrence of possible economic potential to sustain a mining operation;
 - (c) the activities proposed to be undertaken during the renewed term are appropriate;
 - (d) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate.

Note—

However, if the application relates to acquired land, see also section 10AAC.

- (2) The renewal may be granted for the further term of not more than 5 years decided by the Minister.
- (3) The renewed licence is subject to—
 - (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Minister, for the licence.
- (4) Without limiting subsection (3), the Minister may decide a condition of the renewed licence if the Minister considers the condition is in the public interest.

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- (5) The Minister may refuse to renew the licence if the Minister—
- (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
 - (b) after considering the holder's response, is satisfied the renewal should be refused.
- (6) Without limiting subsection (5)(b), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.
- (7) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
- (a) the decision; and
 - (b) if the decision is to grant the renewal on conditions, or to refuse the renewal, the reasons for the decision.

197C Continuation of licence while application being dealt with

- (1) This section applies to an application for renewal of a mineral development licence if—
- (a) the application is not withdrawn, refused or granted before the licence's expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the licence and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the licence conditions.
- (2) If the application is a properly made application, the licence continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.

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- (3) If the application is an outstanding request application, the licence continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until either of the following days, whichever happens first—
- (a) the application is withdrawn;
 - (b) the period in which the action that must be taken under section 386K(1) ends.

- (4) In this section—

outstanding request application, for renewal of a mineral development licence, means an application—

- (a) that complies with section 197(2)(a) and (b), but does not comply with all or part of section 197(2)(c); and
- (b) for which—
 - (i) the chief executive has given a notice under section 386J(1); and
 - (ii) the period to comply with the notice under section 386K(1) ends after the licence expiry day; and
 - (iii) the notice has not been complied with.

properly made application, for renewal of a licence, means an application that complies with all of section 197(2).

197D When term of renewed licence starts

- (1) If a mineral development licence is renewed before its expiry day ends, the term of the renewed licence starts on the day after the expiry day.
- (2) If the licence is renewed after the expiry day, the term of the renewed licence is taken to have started on the day after the expiry day.

197E When new conditions of renewed licence start

- (1) If a renewed mineral development licence is subject to conditions (the *new conditions*) different from, or not included in, the licence conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed licence;
 - (b) the day the renewal is granted.
- (2) However, if the licence is continued in force under section 197C, the holder must pay rental on the licence from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mineral development licence had been renewed on the day after the expiry day.
- (3) Subsection (2) applies even though payment of rental may be a condition of the licence.

197F Renewal of licence must be in name of last recorded transferee

- (1) This section applies if a transfer of a mineral development licence is registered under section 318AAT—
 - (a) after the date on which an application for renewal of the licence is made; and
 - (b) before the application is decided by the Minister.
- (2) Any renewal granted on the application must be in the name of the transferee under the last transfer registered before the grant of the renewal.

206 Correction of instrument of mineral development licence

If, at any time the Minister is of the opinion that the instrument of a mineral development licence should be corrected by reason that—

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- (a) the boundaries and size of the area of the mineral development licence have been more accurately ascertained; or
- (b) facts have appeared or been established since the grant of the mineral development licence justifying a correction of the instrument to more accurately reflect the holder's entitlements under the licence; or
- (c) the instrument is defective owing to error in its preparation;

the Minister may correct the instrument and shall record details thereof in the register of mineral development licences kept by the chief executive and endorse the instrument which shall take effect accordingly.

207 Replacement of instrument of mineral development licence

- (1) Where the Minister is satisfied that the instrument of a mineral development licence should be cancelled and a replacement instrument issued in its place, the Minister shall cancel the instrument and cause a replacement instrument to be issued in its place.
- (2) A replacement instrument of a mineral development licence issued under this section—
 - (a) shall be the instrument in place of the instrument previously issued and cancelled under this section which lastmentioned instrument shall, upon the issue of the fresh instrument, cease to be of any force or effect; and
 - (b) may bear a form of endorsement which briefly traces the devolution of the licence from the original holder of the mineral development licence to the person appearing as holder thereof at the time the replacement instrument is issued; and
 - (c) shall bear endorsement of all apparently subsisting mortgages affecting the mineral development licence and endorsed on the instrument so cancelled; and

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- (d) shall be delivered to the person who appears to the Minister to be lawfully entitled to possession thereof.
 - (3) The chief executive shall cause the instrument so cancelled to be suitably endorsed and a suitable recording made in the register that a replacement instrument has been issued in its place.
 - (4) The cancelled instrument shall be retained by the chief executive.

208 Adding other minerals to licence

- (1) The holder of a mineral development licence for particular minerals may lodge a written application with the chief executive for the Minister's approval to add stated minerals to the licence.
- (2) The application must be accompanied by the application fee prescribed under a regulation.
- (3) The Minister may approve or reject the application.
- (3A) If the mineral to be added to the licence is mineral (f), the Minister may only approve the application if the Minister is satisfied the public interest will not be adversely affected by the addition.
- (3B) Without limiting the grounds on which the Minister may reject the application, the Minister may reject it if the Minister considers that approving it is not in the public interest.
- (4) The approval may be given on the conditions the Minister considers appropriate, including conditions requiring the holder to deposit a stated amount of additional security.
- (4A) Without limiting subsection (4), the Minister may decide a condition for the giving of the approval if the Minister considers the condition is in the public interest.
- (5) If the Minister approves the application, the mineral development licence is taken to include the stated minerals from the day the Minister approves the application.

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- (6) Particulars of an approval under this section must be recorded in the register and endorsed on the holder's licence.

209 Contravention by holder of mineral development licence

- (1) If the Minister considers that the holder of a mineral development licence—
- (a) has carried out activities that are not bona fide for the purposes for which the mineral development licence was granted; or
 - (b) has failed to pay any moneys (other than rental) payable thereunder or in respect thereof by the due date for payment; or
 - (c) has failed to comply with any condition that is to be observed and performed by the holder under or in respect of the mineral development licence, other than a condition with respect to matters referred to in subsection (2)(a) or (b);

the Minister may—

- (d) cancel the mineral development licence; or
 - (e) impose on the holder a penalty not exceeding 1000 penalty units.
- (2) If the Minister considers that the holder of a mineral development licence—
- (a) in any rental year has failed after notice given to the holder in accordance with section 193(5) to pay before 1 December of that rental year the amount of the rental payable under that section by that date in respect of that mineral development licence; or
 - (b) has failed to pay a penalty imposed on the holder pursuant to subsection (1)(e) within the time allowed for the payment by the Minister;

the Minister may cancel the mineral development licence and shall notify the holder and each person who currently holds a

recorded interest in respect of the mineral development licence accordingly.

- (3) The Minister shall not act pursuant to subsection (1) until the Minister has, by notice in writing in the approved form served on the holder of the mineral development licence, called upon the holder to show cause within the time specified therein why the mineral development licence should not be cancelled or a penalty imposed and served a copy of the notice on every person who currently holds a recorded interest in respect of the mineral development licence and such cause has not been shown to the satisfaction of the Minister.
- (4) When the Minister pursuant to this section cancels a mineral development licence the Minister shall notify the holder and every person who holds a recorded interest in respect of the mineral development licence accordingly.
- (5) For the purposes of this section a recorded interest in a mineral development licence does not include an associated agreement recorded in the register under chapter 7, part 2.

210 Surrender of mineral development licence

- (1) The holder of a mineral development licence may apply to surrender the mineral development licence or any part of the area of the mineral development licence at any time before the expiration of its term.
- (3) The holder of a mineral development licence who desires to surrender a mineral development licence or any part of the area of the mineral development licence shall lodge with the chief executive—
 - (a) a notice of surrender in the approved form; and
 - (b) in the case of a surrender of part of the area of a mineral development licence—
 - (i) a plan prepared in a manner acceptable to the chief executive of that part of the area to be retained in the mineral development licence; and

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- (ii) identification in the prescribed manner of the boundaries of the area to be retained; and
 - (iii) if land other than land in the area of the mineral development licence is required as access from a point outside the boundary of the area to be retained to any part on the surface of that area—a description and identification in the prescribed manner of that land; and
 - (c) the fee prescribed under a regulation.
- (4) A purported surrender of a mineral development licence or of any part of the area of a mineral development licence shall not be effective unless—
 - (a) the holder has complied with this section; and
 - (b) the Minister consents to the surrender;and shall, except in the case of a surrender referred to in subsection (13), take effect on the day next following the Minister’s consent.
- (5) However, the Minister may give the consent only if the Minister is satisfied—
 - (a) the holder has complied with the condition to carry out improvement restoration for the mineral development licence; and
 - (b) the relevant environmental authority has been cancelled or surrendered under the Environmental Protection Act.
- (6) If the Minister is not satisfied the holder has complied with the condition, the Minister may, by written notice, give the holder reasonable directions about carrying out improvement restoration for the mineral development licence.
- (7) The holder must comply with the directions.
Maximum penalty—500 penalty units.
- (8) Where a mineral development licence is surrendered in respect of part only of the area of the mineral development licence, the licence issued in respect thereof shall be corrected

by excising that part and taking any other steps required to conform with this Act and thereupon the mineral development licence shall continue in force in respect of the area retained.

- (9) Upon a surrender of a mineral development licence, all adjustments between the holder and the Crown in respect of the payment of rental, fees and other moneys shall be at the discretion of the Minister.
- (10) Where any moneys are specified pursuant to subsection (9) as a debt due to the Crown, the Minister may direct that the security deposited in accordance with section 190 may be utilised for payment thereof.
- (11) Any moneys specified pursuant to subsection (9) by the Minister to be payable or that part thereof not recovered under subsection (10) shall be a debt due by the person specified as liable to pay to the Crown.
- (12) In an action under subsection (11) for recovery of a debt due to the Crown, the production of a certificate by the chief executive certifying the amount of that debt shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the debt and the amount thereof.
- (13) Where, at the time when the holder of a mineral development licence purports to surrender the mineral development licence or a part of the area of the mineral development licence, the holder applies for a new mineral development licence for the whole or part of the area of the current mineral development licence the purported surrender shall take effect immediately prior to the grant of the new mineral development licence.

211 Access and compensation provisions—sch 1

Schedule 1 contains provisions about access, compensation and related matters for mineral development licences.

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214 Improvement restoration for mineral development licence

- (1) This section applies on the termination of a mineral development licence, other than—
 - (a) by surrender under section 210; or
 - (b) for the granting of a new mineral development licence or mining lease over the area of the terminated licence.
- (2) If the Minister is not satisfied the holder has satisfactorily complied with the condition to carry out improvement restoration for the mineral development licence, the Minister may, by written notice, give the holder reasonable directions about carrying out the restoration.
- (3) The holder must comply with the directions.
Maximum penalty—500 penalty units.
- (4) The holder and the holder's employees or agents may, to the extent reasonable and necessary to comply with the directions—
 - (a) enter land stated in the notice; and
 - (b) bring on to the land vehicles, vessels, machinery and equipment.

215 Rights and obligations extended upon application for mining lease

- (1) The holder of a mineral development licence who, during the term of the licence makes application for the grant of a mining lease for any part of the area of the licence, shall, during the period from the expiration of the licence until the determination of the application, for so long as the provisions of this Act and the terms and conditions that would apply if the licence were current are complied with, have all the responsibilities, powers, authorities and duties that the holder would have had for the part of the area the subject of the application if the licence was current but during that period no rental shall be payable under this part for the part of the area the subject of the application.

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- (2) The entitlements of the holder of a mineral development licence are not reduced or limited by reason only of the holder's application for the grant of a mining lease for any part of the area of a mineral development licence.

216 Production of mineral development licence

- (1) A person purporting to be upon land under the authority of a mineral development licence shall forthwith upon demand by the owner of that land, an agent of the owner or a person authorised in that behalf by the Minister for proof of authority for being on the land, produce or cause to be produced to the person making the demand the mineral development licence or a written authorisation in a form acceptable to the Minister from the holder of the mineral development licence authorising the person to enter or be upon that land for any purposes authorised thereunder.
- (2) For so long as a person fails to comply with a demand lawfully made of the person under subsection (1) the person does not have any of the entitlements under this Act.
- (3) This section does not apply to prevent a person entering land for the purpose of delivering goods or substances or providing services ancillary to the purpose for which the mineral development licence is granted to a person who is lawfully on that land under this part.

223 Chief executive may recommend action to ease concerns or other action

- (1) If the chief executive considers a mineral development licence holder should take stated action to ease concerns of an owner of land or another mineral development licence holder, or should take some other action, the chief executive may recommend the action to the Minister.
- (2) The Minister may give the mineral development licence holder the directions the Minister considers appropriate about the recommended action.

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- (3) A failure by the holder to comply with the Minister's directions is taken to be a breach of a condition of the mineral development licence.
- (4) If the Minister gives a direction under subsection (2), the chief executive must give a copy to—
 - (a) if the recommended action under subsection (1) relates only to native title protection conditions under section 194AAA—any person identified in the conditions as a native title party; or
 - (b) if the recommended action under subsection (1) relates only partly to the native title protection conditions—
 - (i) any person identified in the conditions as a native title party; and
 - (ii) the owner of the land; or
 - (c) otherwise—the owner of the land.
- (5) If the recommended action under subsection (1) is action to ease concerns of an owner of land or another mineral development licence holder, the chief executive must give the owner and the other mineral development licence holder written notice of—
 - (a) the substance of any recommendation made to the Minister under subsection (1) or, if the chief executive decides not to make a recommendation, the chief executive's decision; and
 - (b) any other action the chief executive has taken to ease the concerns of the owner or mineral development licence holder.

224 Utilisation of security deposit towards subsequent mineral development licence or mining lease

Where the holder of a mineral development licence makes application for the grant of a subsequent mineral development licence or a mining lease, the Minister notwithstanding that the period of 6 months after the termination of that licence

may not have elapsed may, instead of refunding the whole or part of the security deposited in respect of the current mineral development licence, retain that security or part thereof (together with any further security fixed by the Minister) as the security (in which case it shall be taken to be or to be part of the security) deposited by the applicant in respect of the subsequent mineral development licence or the mining lease.

225 Direction to apply for mining lease

- (1) If, at any time during the currency of a mineral development licence, the Minister is of the opinion that actual mining operations should commence on any part of the area of the licence, the Minister shall give to the holder written notice directing the holder to indicate, within the time specified in the notice, why the holder should not apply for a mining lease for that purpose.
- (2) If the holder of a mineral development licence to whom a notice under subsection (1) has been given does not, within the time specified in the notice, or such longer time as the Minister in writing may approve, reply to the notice, or the Minister, on considering the holder's reply, is not satisfied that the holder should not apply for a mining lease, the Minister may give the holder a further written notice directing the holder, within the time specified in the notice or such extended time as the Minister in writing may approve, to apply for such a mining lease.
- (3) If the holder to whom a notice under subsection (2) is given does not apply for a mining lease as directed within the specified time or such extended time, the Minister may in the Minister's discretion cancel the mineral development licence.
- (4) Upon the cancellation of a mineral development licence pursuant to subsection (3) land in the area of the mineral development licence does not become part of the area of any current exploration permit.
- (5) Any refund of moneys held in respect of a mineral development licence that is cancelled pursuant to subsection

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(3) (including any security deposited) shall be at the Minister's discretion.

226 Minister may determine availability of certain land

- (1) Where in respect of any land—
- (a) an application for a mineral development licence or for renewal thereof is rejected by the Minister; or
 - (b) a mineral development licence expires by effluxion of time and an application to renew the licence is not duly made; or
 - (c) a mineral development licence is cancelled pursuant to section 209 or 225; or
 - (d) a mineral development licence is surrendered or an application for the grant of a mineral development licence is abandoned in respect of land over which the holder of or the applicant for the grant does not hold an exploration permit that adjoins that land;
- that land, shall not be available for any subsequent application for the grant of a mining tenement unless and until approved by the Minister.
- (2) An approval of the Minister under subsection (1) may limit the type of application or grant that may be made in respect of the land specified in the approval and may stipulate the conditions under which applications therefor may be made.
- (3) An approval of the Minister under subsection (1) may provide that a subsequent application by an eligible person need not be by the holder of a prospecting permit, exploration permit or a mineral development licence.
- (4) Notwithstanding subsection (1), where the applicant for a mineral development licence that is rejected is at the time of the rejection the holder of an exploration permit in respect of the same land, that land shall, upon the rejection, be subject to the exploration permit.

226AA Application to add excluded land to existing licence

- (1) The holder of a mineral development licence (the *existing licence*) may apply to the Minister to add excluded land to the existing licence.
- (2) The provisions of this part apply, with necessary changes, to an application under subsection (1) as if it were an application under section 183.
- (3) Without limiting subsection (2), in deciding the application, the Minister may—
 - (a) impose conditions under section 194(1)(j) in addition to any conditions that apply under the existing licence; and
 - (b) fix an amount of security to be deposited under section 190 in addition to any security for the existing licence.
- (4) On the granting of the application, the excluded land is included in the existing licence.
- (5) In this section—

excluded land means land that was the subject of a specific exclusion when the existing licence was granted or that was taken to be excluded under section 182.

226A Reduction of area of mineral development licence on grant of mining lease

- (1) This section applies if a mining lease is granted because of an application made by—
 - (a) the holder of a mineral development licence granted for the same area for the same mineral, whether or not at the Minister's direction; or
 - (b) an eligible person with the holder's consent.
- (2) The area of the licence must be reduced by omitting the area of the mining lease.
- (3) The terms of the licence may be varied as the Minister directs.

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227 Discovery etc. of mineral does not vest property

A person who whilst acting under the authority of a mineral development licence discovers or takes any mineral does not thereby acquire property therein and shall not dispose of any such mineral except with the consent of the Minister whose consent may be subject to such terms and conditions as the Minister thinks fit (including conditions as to the payment of royalties).

228 Effect of termination of mineral development licence

- (1) This section applies on the termination of a mineral development licence.
- (2) However, this section does not apply to a mineral development licence if the termination is for granting a new mineral development licence or a mining lease over the area of the terminated licence to the holder of the terminated licence.
- (3) On the termination of a mineral development licence, the ownership of machinery, equipment and removable improvements (*plant*) on the area of the terminated licence divests from the owner and vests in the State.
- (4) However, subsection (3) applies to plant only if the plant was brought on to the land under the terminated mineral development licence.

229 Application may be made for approval to remove plant

- (1) This section applies to plant that vests in the State on the termination of a mineral development licence.
- (2) Anyone who had an interest in the plant immediately before its ownership vested in the State may apply in writing to the Minister for permission to remove the plant from the land.
- (3) The application—

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- (a) must be made within 20 business days after the plant vests in the State (or a longer period, of not more than 3 months, allowed by the Minister); and
 - (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease has been made over the land.
- (4) The Minister may approve or refuse to approve the application.
- (5) However, the Minister must approve the application if the Minister is satisfied—
- (a) the person was entitled to the plant immediately before it vested in the State; and
 - (b) there is enough security held for the terminated mineral development licence to meet the costs for which it was deposited.

Note—

For the provision of security, see section 190.

- (6) An approval may be given on conditions stated in it.
- (7) If the application is approved, the person named in the approval may enter the land and remove the plant (other than any covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.
- (8) Anything lawfully removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mineral development licence.
- (9) In this section, *plant* has the meaning given in section 228(3).

230 Plant remaining on former mineral development licence may be sold etc.

- (1) This section applies if the chief executive has not received, or has received but not granted, an application for approval to remove plant from the site of a terminated mineral

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development licence within 3 months after the licence's termination.

- (2) The Minister may direct the chief executive to—
 - (a) sell the plant by public auction or in another stated way;
or
 - (b) if the plant has no commercial value—dispose of or destroy it.
- (3) Proceeds of a sale are to be applied in the following order towards—
 - (a) the reasonable expenses incurred in the sale;
 - (b) the cost of rectifying actual damage for which an amount of security deposited for the terminated mineral development licence could have been used but was not used, or was inadequate;
 - (c) any costs or expenses mentioned in the Environmental Protection Act, section 298 for a relevant environmental authority;
 - (d) amounts owing to the State under this Act by the former holder;
 - (e) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority;
 - (f) amounts owing to a mortgagee under a mortgage registered under this Act over the mineral development licence.
- (4) Any balance must be paid to the former holder.
- (5) If the chief executive can not decide the identity of, or locate, a person entitled to the proceeds or part of the proceeds, the chief executive may pay the amount to the public trustee as unclaimed moneys.
- (5A) A secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (3)(a) to (e).

(6) Compensation is not payable for a sale, disposal or destruction under this section.

(7) In this section—

plant has the meaning given in section 228(3).

PPS Act means the *Personal Property Securities Act 2009* (Cwlth).

secured party has the meaning given by the PPS Act, section 10.

security interest has the meaning given by the PPS Act, section 12.

231 Variation of access to mineral development licence area

(1) The holder of a mineral development licence may apply to the chief executive in the approved form for a variation of the land used or proposed to be used as access in relation to the area of the mineral development licence.

(2) An application for a variation of the land used or to be used as access under this section shall be accompanied by—

(a) such particulars as are, by sections 183 and 184, required to accompany an application for the grant of a mineral development licence in so far as those particulars relate to the land used or proposed to be used as access in relation to the area of the mineral development licence; and

(b) the prescribed application fee.

(3) The Minister may grant or reject an application under this section.

(4) Without limiting subsection (3), the Minister may reject the application if the Minister considers the variation is not in the public interest.

(5) If the Minister grants the application, the Minister may impose conditions on the variation.

231B Only eligible person can apply for and hold mineral development licence (180)

- (1) A mineral development licence under this part can only be applied for and held by an eligible person.
- (2) The application and grant of a licence may be made even if the land for the relevant Aurukun project is part of a restricted area.

Note—

The numbers bracketed in the headings to this and other sections of this part are references to corresponding sections in part 1.

- (3) Despite subsection (1), a mineral development licence granted under this part may be cancelled under section 231J even though the holder has ceased to be an eligible person.

231C Application for mineral development licence (183)

The application for the grant of a mineral development licence must—

- (a) be in the approved form; and
- (b) identify, in the way approved by the Minister, the boundaries of the land applied for; and
- (c) describe and identify any land proposed to be used as access from a point outside the boundary of the land applied for acceptable to the chief executive to any part on the surface of the land sought to be included in the licence; and
- (d) be lodged with the chief executive; and
- (e) be accompanied by—
 - (i) a statement, acceptable to the Minister, stating the activities, if any, proposed to be conducted under the licence, including, for example, work programs, amounts to be spent and studies to be performed; and

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- (ii) a statement, acceptable to the Minister, separate from the statement mentioned in subparagraph (i), detailing the applicant's financial and technical resources; and
- (iii) the application fee prescribed under a regulation.

231D Alternative way of describing mineral development licence (184)

In addition to section 184, the chief executive may approve an alternative way of describing the land applied for.

231E Minister may grant or reject application for mineral development licence (186)

- (1) If the Minister is satisfied the applicant has complied with this Act in relation to the application, the Minister may grant and issue to the applicant a mineral development licence over all or part of the land for which the application is made.
- (2) Alternatively, the Minister may reject the application.
- (3) Without limiting subsection (2), the Minister may reject the application if the Minister considers the mineral development licence is not in the public interest.
- (4) If the Minister rejects the application, in whole or in part, the Minister must, as soon as practicable after making the decision, give the applicant written notice of the reasons for the decision.
- (5) If the Minister grants the licence for part only of the land applied for, the application in so far as it relates to the balance of that land is taken to be rejected.
- (6) The licence must be in the approved form and must state—
 - (a) the identification number of the licence; and
 - (b) the name of the holder; and
 - (c) the address for service of notices on the holder; and

- (d) the description of land for which the licence is granted; and
 - (e) the term of and the date the licence starts; and
 - (f) the conditions, other than conditions prescribed by this Act, to which the licence is subject; and
 - (g) state the minerals the subject of the licence.
- (7) Without limiting subsection (6), the Minister may decide a condition to which the licence is subject if the Minister considers the condition is in the public interest.

231F Initial term of mineral development licence (192)

- (1) The initial term of a mineral development licence is for a period of not more than 5 years starting on the first day of the month next following the day the licence is granted.
- (2) From the grant of the licence to the start of the initial term, the holder has all the entitlements, powers, duties and functions the holder has during the term of the licence.
- (3) Despite section 193, no rent is payable for the period before the initial term starts.

231G Conditions of mineral development licence (194)

- (1) A mineral development licence is subject to—
 - (a) a condition that the holder must carry out the activities, if any, for which the licence was granted and in accordance with this Act and the conditions of the licence and for no other purpose; and
 - (b) a condition that the holder must carry out improvement restoration for the licence; and
 - (c) a condition that the holder, before the licence ends for whatever cause, must remove all equipment and plant on or in the area of the licence unless otherwise authorised in writing by the Minister; and

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- (d) a condition that without the prior approval in writing of the Minister the holder must not obstruct or interfere with any right of access had at any time during the term of the licence by any person in relation to the area of the licence for so long as that right of access is exercised; and
 - (e) a condition that the holder is not to transfer or mortgage the licence, or any part of it, unless the Minister is satisfied that any approval or consent required under the relevant Aurukun agreement has been given; and
 - (f) a condition that the holder must, when the Minister requires, give to the Minister—
 - (i) progress and final reports, accompanied by maps, sections, charts and other data giving full particulars and results of activities carried out on the area stated by the Minister, including details of costs incurred for stated periods within the term of the licence; and
 - (ii) materials obtained because of the holder's activities under the licence; and
 - (g) a condition that the holder—
 - (i) pays the rental prescribed under a regulation; and
 - (ii) deposit, as required by the Minister, any security from time to time under this Act; and
 - (h) a condition that the holder must comply with this Act and other mining legislation; and
 - (i) any other conditions stated in the relevant Aurukun agreement to be conditions of the licence; and
 - (j) any other conditions decided by the Minister.
- (2) Without limiting subsection (1), the Minister may decide a condition of the licence if the Minister considers the condition is in the public interest.

- (3) The Minister may, from time to time and with the agreement of the holder, vary any condition imposed by the Minister.
- (4) Without limiting subsection (3), the Minister may decide not to make a variation of the condition proposed by the holder if the Minister considers the variation is not in the public interest.
- (5) The holder of the licence and all persons acting under the authority of the licence must comply with the conditions for the time being of the licence.
- (6) Conditions requiring compliance with stated codes or industry agreements may be imposed on the licence.
- (7) Despite subsections (1) to (4) and (6), a condition must not be imposed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the licence.

231H Renewal of licence (197A)

- (1) The Minister may renew a mineral development licence if the Minister is satisfied of each of the following—
 - (a) the relevant Aurukun agreement has not been terminated;
 - (b) the holder of the licence has complied with—
 - (i) the licence; and
 - (ii) this Act in relation to the licence;
 - (c) the activities proposed to be undertaken during the renewed term are appropriate;
 - (d) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate.
- (2) The renewal may be granted for a further term of not more than 5 years decided by the Minister.
- (3) The renewed licence is subject to any conditions applying at

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the end of the earlier term of the licence and to any other conditions decided by the Minister.

- (4) Without limiting subsection (3), the Minister may decide a condition to which the licence is subject if the Minister considers the condition is in the public interest.
- (5) The Minister may refuse to renew the licence if the Minister—
 - (a) has served on the holder a notice, in the approved form, asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
 - (b) after considering the holder's response, is satisfied the renewal should be refused.
- (6) Without limiting subsection (1) or (5), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.
- (7) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
 - (a) the decision; and
 - (b) if the decision is to refuse the renewal, the reasons for the decision.

231I Requirements for transferring or mortgaging mineral development licences

- (1) Subsection (2) applies despite chapter 7, part 1, divisions 2 and 3.
- (2) A mineral development licence, or an interest in a mineral development licence, can not be transferred or mortgaged unless the Minister is satisfied that any approval or consent required under the relevant Aurukun agreement for the transfer or mortgage has been given.

231J Contravention by holder of mineral development licence (209)

In addition to section 209, if the relevant Aurukun agreement has been terminated, the Minister may cancel the licence.

231K Review of decisions

- (1) A decision under this Act, in relation to a mineral development licence—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal, an authority or a person); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal, an authority or a person on any ground.
- (2) In this section—

decision includes a decision affected by jurisdictional error.

Chapter 6 Mining leases

Part 1 Mining leases generally

232 Land subject to mining lease

- (1) Unless otherwise approved by the Minister pursuant to section 226(3), a mining lease in respect of a mineral or minerals may be applied for by an eligible person in respect of contiguous land in the area or areas of—

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- (a) a prospecting permit or prospecting permits; or
- (b) an exploration permit or exploration permits; or
- (c) a mineral development licence or mineral development licences;

in respect of that mineral or those minerals of which the applicant or, where more than 1 person is the applicant, at least 1 of them is, with or without others, the holder.

Notes—

- 1 See section 10AAB(3) if land in the relevant mining tenement is not contiguous following the taking of land under a resumption law.
 - 2 For inclusion of acquired land that was previously in the relevant mining tenement's area, see section 10AAC(3).
- (2) Where a mining lease may be granted to a person pursuant to subsection (1) a mining lease may also be granted to that person for any purpose for which mining leases may be granted.
- (3) Despite subsection (1), a mining lease for a mineral or minerals that include mineral (f) may only be granted to an eligible person in respect of contiguous land that is in the area or areas of a mineral development licence or mineral development licences.

233 Only eligible persons to hold mining leases

A mining lease shall not be held by a person who is not an eligible person.

234 Minister may grant mining lease

- (1) The Minister may grant to an eligible person or persons, a mining lease for all or any of the following purposes—
- (a) to mine the mineral or minerals specified in the lease and for all purposes necessary to effectually carry on that mining;

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- (b) such purposes, other than mining, as are specified in the mining lease and that are associated with, arising from or promoting the activity of mining.
- (2) However, coal seam gas can not be specified in a mining lease.

Note—

For the entitlement of a coal mining lease holder or an oil shale mining lease holder to mine coal seam gas, see section 318CM.

- (3) Also, the Minister must not grant a mining lease for land in a fossicking area, or for land that includes the whole or part of a fossicking area, unless the application—
- (a) was made, but not decided, before the land became a fossicking area; or
 - (b) is for land in a prospecting permit, exploration permit or mineral development licence.

235 General entitlements of holder of mining lease

- (1) Subject to section 236 and chapter 8, part 8, division 1, during the currency of a mining lease, the holder of the mining lease and any person who acts as agent or employee of the holder (or who delivers goods or substances or provides services to the holder) for a purpose or right for which the mining lease is granted—
- (a) may enter and be—
 - (i) within the area of the mining lease; and
 - (ii) upon the surface area comprised in the mining lease;for any purpose for which the mining lease is granted or for any purpose permitted or required under the lease or by this Act;
 - (b) may do all such things as are permitted or required under the lease or by this Act.

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- (2) During the currency of the mining lease, the rights of the holder relate, and are taken to have always related, to the whole of the land and surface area mentioned in subsection (1).
- (3) Where any Act provides that water may be diverted or appropriated only under authority granted under that Act, the holder of a mining lease shall not divert or appropriate water unless the holder holds that authority.

236 Entitlement to use sand, gravel and rock

- (1) Subject to compliance with any conditions specified in the mining lease and payment of the prescribed royalty to the person having the property in any sand, gravel or rock the holder of the mining lease may utilise, upon the area of the mining lease and for any purpose permitted under the mining lease, sand, gravel and rock occurring in or on the area of the mining lease except to the extent that an authority granted under any other Act prior to the grant of the mining lease or, with the consent of the holder of the mining lease, after the grant of the mining lease for the use or disposal applies thereto.
- (2) A provision in any other Act, other than the Environmental Protection Act, that, but for this subsection, would require a person acting pursuant to subsection (1) to obtain a licence or other authority thereunder to so act or would prohibit that person from so acting unless the person held such a licence or authority does not apply to that person.
- (3) For the purposes of chapter 11, sand, gravel and rock utilised by the holder of a mining lease pursuant to this section shall be deemed to be mineral mined by the holder.

237 Drilling and other activities on land not included in surface area

- (1) A mining lease holder may, in the approved form, apply to the Minister for approval to conduct drilling and other activities

on land not included in the surface area covered under the lease.

- (2) The application—
 - (a) must be lodged with the chief executive; and
 - (b) must describe—
 - (i) the activities proposed to be carried out on the land under the mining lease; and
 - (ii) the area over which the activities are to be carried out on the land; and
 - (c) must state how long the activities are to be carried out; and
 - (d) must be accompanied by—
 - (i) the written consent of the owner of the land; and
 - (ii) if there is an agreement between the holder and the owner about the compensation payable to the owner for the activities—a copy of the agreement; and
 - (iii) the fee prescribed under a regulation.
- (3) The Minister may approve or refuse to approve the application.
- (4) An approval may be given on conditions stated in it, including conditions about, for example, depositing security and complying with stated codes.
- (5) If an approval is given—
 - (a) the mining lease must be amended to give effect to the approval and the conditions stated in it; and
 - (b) particulars of the approval must be recorded in the register and endorsed on the relevant instrument of mining lease.

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238 Mining lease over surface of restricted land

- (1) A mining lease may be granted over the surface of land that was restricted land when the application for the lease was lodged only if—
 - (a) the owner of the land where the relevant permanent building, or relevant feature, is situated, consents in writing to the application; and
 - (b) the applicant lodges the consent with the chief executive before the last objection day ends.
- (2) A consent given for subsection (1) can not be withdrawn.

239 Restriction on mining leases where land freed from exploration permit

Upon an area of land, for whatever reason, ceasing to be the subject of an exploration permit, then, for a period of 2 calendar months following the end of the month in which that cessation occurs—

- (a) any application for a mining lease in respect of land within that area that exceeds 50ha shall be rejected; and
- (b) a person shall not apply for the grant of or hold or have an interest (whether direct or indirect) in mining leases over any of that land the aggregate area of which exceeds 300ha.

240 Marking out land before application for grant of mining lease

- (1) An eligible person who wishes to apply for the grant of a mining lease shall mark out, in the prescribed manner, the boundary of the land proposed to be the subject of the application, whether or not the surface of the land is included in the application.
- (2) Where an application for a mining lease is for part only of the surface of the land proposed to be the subject of the mining lease a person shall not, in complying with subsection (1), be

required to peg the boundary of the surface area which is to be included in the mining lease.

241 Manner of marking out land proposed to be subject of mining lease

- (1) Before making an application for the grant of a mining lease, the intending applicant or some person authorised on the intending applicant's behalf shall mark out the land by inserting firmly in the ground at each and every corner of the land applied for a round post which shall be not less than 10cm in diameter or a square post each side of which shall be not less than 10cm in width standing at least 1m above the surface and sunk not less than 50cm in the ground.
- (2) The part of each post above the surface shall be painted white.
- (3) Where posts are of timber construction they shall be barked and dried of sap before use.
- (4) One of the posts shall be selected to be the datum post for the purpose of the commencement of the description and from which a cadastral surveyor shall commence any survey of the land.
- (5) There shall be engraved or in some way durably marked on each post the applicant's initials and surname (or of 1 applicant should there be more than 1) and the numerals indicating the date on which the subject land was marked in accordance with this section and the engraving or marking shall be so maintained until action is taken in accordance with section 252B(1)(a) and (b).
- (6) Where the applicant is a company the initials of that company (or of any 1 company should there be more than 1) shall be engraved and marked as prescribed herein on the posts.
- (7) If a post can not be inserted in the manner prescribed there shall be erected a cairn of stones at least 50cm high in the place where the post should have been inserted.

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- (8) If cairns of stones are erected there shall be engraved or in some way durably marked thereon the particulars which would have been required had a post been inserted.
- (9) Where it is not practicable to insert a post or erect a cairn of stones in the manner prescribed at every corner of the land applied for, there may be inserted a datum post only and compass bearings shall be taken and distances measured, as required by section 246.
- (10) Where it is impossible to insert a datum post or erect a cairn of stones in the manner prescribed by subsection (1) the land shall be marked by measuring a distance on a given bearing from a reference post to a point which shall be the nominal position of the starting point and from which any survey of the land shall commence and the reference post shall in all respects comply with the provisions of this Act relating to a datum post, except the provisions relating to position.

242 Consent of chief executive required to certain marking out of area

- (1) Where the land the subject of a mining lease is marked out in accordance with section 241(9) or (10) the consent of the chief executive is required and the chief executive's consent may be given at any time prior to the issue of the certificate of application.
- (2) Where consent is so given, the chief executive shall note the register accordingly.

243 Time for application for grant of mining lease

An eligible person who marks out the boundary of land in accordance with this part may, during the currency of the person's prospecting permit, exploration permit or mineral development licence but within 5 business days of so marking out, apply in the prescribed manner for the grant of a mining lease over that land.

244 If application for mining lease not made, is rejected or abandoned, posts etc. to be removed

- (1) A person who marks out the boundary of land for the purpose of making an application for the grant of a mining lease shall remove or cause to be removed forthwith all posts, cairns and other things used by the person to mark out the boundary (not being a survey mark or other thing required by any other Act not to be removed)—
 - (a) where the person has not made the application within 5 business days of the marking out, upon the expiration of those 5 business days; or
 - (b) where the person has made the application as prescribed, upon the rejection or abandonment of the application.
- (2) For the purpose of removing posts, cairns and other things in compliance with subsection (1), a person may enter the relevant land.

245 Application for grant of mining lease

- (1) An application for the grant of a mining lease shall—
 - (a) be in the approved form; and
 - (b) specify the name of each applicant; and
 - (c) specify the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants; and
 - (d) describe all parcels of land the whole or part of which are applied for in the application and specify the current use of the land and whether it is subject to erosion control works and the names and addresses of the owner or owners of the land and of land which is to be used as access thereto; and
 - (e) identify in the prescribed manner the boundaries of the land applied for; and

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- (f) identify in the prescribed manner the boundaries of any surface area of land within the boundaries described pursuant to paragraph (e) to be included in the mining lease and specify the purpose for which that area is to be used; and
- (g) identify any improvements referred to in section 238(1) on land identified in the application as required by paragraph (f); and
- (h) describe and identify in the prescribed manner any land proposed to be used as access from a point outside the boundary of the land applied for in the application acceptable to the chief executive to land applied for in the application; and
- (i) give reasons why the mining lease should be granted in respect of the area and shape of the land described in the application; and
- (j) be accompanied by a sketch, map or other graphic representation acceptable to the chief executive setting out the boundaries of any land referred to in paragraphs (e), (f) and (h); and
- (k) identify the mineral or minerals or purpose in respect of which the mining lease is sought; and
- (l) nominate the term of the mining lease sought and give reasons therefor; and
- (m) be lodged; and
- (o) be accompanied by—
 - (i) proof, to the chief executive's satisfaction, of the applicant's identity; and
 - (ii) the number of additional copies of the application, and other documents lodged with the application, the chief executive requires; and
 - (iii) a statement, acceptable to the chief executive—

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- (A) outlining the mining program proposed, outlining its method of operation, and providing an indication of when operations are expected to start or, if a mining program is not proposed, outlining the use proposed for the land and providing an indication of when the proposed use is to start; and
 - (B) of proposals for infrastructure requirements necessary to enable the mining program to proceed, or additional activities to be carried on to work out the infrastructure requirements; and
 - (C) specifying the estimated human, technical and financial resources proposed to be committed to authorised activities for the mining lease during the term of the lease, if granted; and
- (iv) a statement, acceptable to the chief executive and separate from the statement mentioned in subparagraph (iii), detailing the applicant's financial and technical resources; and
 - (v) the application fee prescribed under a regulation.
- (1A) However, subsection (1)(o)(iii)(A) does not apply if, under chapter 8, the application includes a proposed development plan that complies with the initial development plan requirements.
- (2) The chief executive shall not accept a mining program referred to in subsection (1)(o)(iii)(A) which is inconsistent with the provisions of this Act.

246 Description of mining lease

In an application for the grant of a mining lease—

- (a) the datum post shall be accurately related by measured distances and compass bearings (or other method

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- acceptable to the chief executive) to a survey mark or other fixed and well defined point acceptable to the chief executive; and
- (b) the boundaries of the land applied for in the application for the mining lease shall be described by accurately measured distances and compass bearings on the ground or other method acceptable to the chief executive; and
 - (c) the boundaries of any surface areas shall be described by accurately measured distances and compass bearings on the ground or other method acceptable to the chief executive and the description shall be related to a boundary post of the land applied for in the application by accurately measured distances and compass bearings; and
 - (d) the surface access (if any) from a point acceptable to the chief executive to a surface area of land within the boundaries of the land applied for in the application for the mining lease shall be described by measured distances and compass bearings along the centre line of that access together with the width of that access or by some other method acceptable to the chief executive; and
 - (e) the datum post or commencement point of the description of any land the subject of a mining claim, mineral development licence or mining lease or earlier application for the grant of a mining claim, mineral development licence or mining lease, in any case wholly within the land sought in the current application for the mining lease shall be related by measured distances and compass bearings on the ground (or other method acceptable to the chief executive) to the datum post of the land applied for in the current application.

248 Applicant must obtain consent or views of existing authority holders

- (1) This section applies if a person applies for a mining lease over land in the area of an existing exploration permit, mineral development licence or mining lease (the *existing authority*) held by someone else.
- (2) The applicant must obtain the existing authority holder's written consent to the application if the lease applied for is for the area of, or land within the area of, the existing authority and for—
 - (a) the same minerals as the existing authority; or
 - (b) a specific purpose mining lease.
- (3) The applicant must obtain the existing authority holder's written views on the application if the lease applied for is for different minerals to those covered by the existing authority.
- (4) If the existing authority holder's consent required under subsection (2) is not lodged with the chief executive before the last objection day for the application ends, the application can not be granted.
- (5) If the existing authority holder's views required under subsection (3) are not lodged with the chief executive before the last objection day for the application ends, the applicant must lodge with the chief executive before the last objection day ends a statutory declaration stating why the applicant can not obtain the views.

249 Later applicant must obtain consent or views of earlier applicant if same land affected

- (1) This section applies if—
 - (a) a person (the *earlier applicant*) makes an application to the chief executive for an exploration permit, mineral development licence or mining lease over land; and

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- (b) someone else (the *later applicant*) makes a later application to the chief executive for a mining lease for any land applied for in the earlier application.
- (2) The later applicant must obtain the earlier applicant's written consent to the later application if the lease applied for in the later application is over land applied for in the earlier application and for—
 - (a) the same minerals as the earlier application; or
 - (b) a specific purpose mining lease.
- (3) The written consent may be lodged with the chief executive before—
 - (a) if the earlier application is decided by the grant of the permit, licence or lease applied for—20 business days after the permit, licence or lease is granted; or
 - (b) otherwise—the earlier application is decided.
- (4) The later applicant must, within the request period, give the earlier applicant a written request seeking the earlier applicant's views if—
 - (a) the earlier application is for a mining tenement mentioned in subsection (1)(a); and
 - (b) the lease applied for in the later application is—
 - (i) over land applied for in the earlier application; and
 - (ii) for different minerals to those covered by the earlier application.
- (5) The written request must—
 - (a) state that the earlier applicant may, within the response period, lodge written views on the later application with the chief executive; and
 - (b) include a copy of the later application, other than any part of the application detailing the later applicant's financial and technical resources.

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- (6) A later applicant to whom subsection (4) applies must lodge with the chief executive notice of the day the later applicant complied with the obligation under subsection (4).
 - (7) An earlier applicant given a written request under subsection (4) may, within the response period, lodge the earlier applicant's written views with the chief executive.
 - (8) The chief executive must not deal with the later application until—
 - (a) for a later application to which subsection (2) applies—the earlier applicant's consent is lodged with the chief executive; or
 - (b) for a later application to which subsection (4) applies—
 - (i) the earlier applicant's views are lodged with the chief executive; or
 - (ii) the end of the response period; or
 - (c) for any other later application—the day the earlier application is finally decided.
 - (9) In this section—

request period means a period of 10 business days starting on the day the later application is lodged.

response period means a period of 20 business days starting on the day the earlier applicant is given a notice under subsection (4).

250 Rejection of application by chief executive

- (1) A person who lodges an application for the grant of a mining lease shall provide the chief executive with such information and particulars relating to the requirements set out in section 245(1) on behalf of the applicant as the chief executive requires and on failure to provide that information the chief executive may reject the application.
- (2) The chief executive may reject an application for a mining lease for all or part of land that appears, on evidence available

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to the chief executive, to be in the area of a mining claim, mineral development licence (other than the licence held by the applicant) or mining lease, or an application for the grant of a mining claim, mineral development licence or mining lease.

- (3) For the purposes of subsection (2) where a mining claim, mineral development licence or mining lease is terminated or an application for a mining claim, mineral development licence or mining lease is abandoned or rejected, the relevant area or land shall be deemed to continue to be subject to the mining claim, mineral development licence or mining lease, or application until the day next following that termination, abandonment or rejection.
- (4) A person whose application for the grant of a mining lease is rejected by the chief executive pursuant to subsection (1) or (2) may appeal against the rejection to the Land Court by lodging a written notice of appeal with the registrar of the Land Court within 20 business days of the rejection.
- (5) The Land Court shall hear and determine the appeal and its determination thereon shall be final.
- (6) At a hearing pursuant to this subsection the Land Court shall take such evidence, shall hear such persons and inform itself in such manner as it considers appropriate in order to determine the appeal and shall not be bound by any rule or practice as to evidence.
- (7) If the Land Court does not confirm the rejection by the chief executive the Land Court shall direct the chief executive to proceed with the application and the chief executive shall do all things necessary to implement that decision.

251 Priority of mining lease applications

- (1) Applications made under this Act for the grant of mining leases for the same land must be considered and decided according to the day on which they are lodged.
- (2) If 2 or more applications are lodged on the same day—

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- (a) they take the priority the Minister decides, after considering the relative merits of each application; and
 - (b) the chief executive must give each applicant a written notice stating there is competition for priority between the applicant's application and another application, or other applications, lodged on the same day as the day on which the applicant's application was lodged.

252 Certificate of application etc.

- (1) Upon being satisfied that the applicant for the grant of a mining lease is eligible to apply for the mining lease and that the applicant has complied with the requirements of this Act with respect to that application the chief executive shall prepare a certificate of application for a mining lease in the approved form.
- (2) The chief executive must endorse on the certificate of application—
 - (a) the number of the proposed mining lease; and
 - (b) the date and time the application was lodged.
- (3) The person lodging the application must sign the certificate.
- (4) The applicant for the proposed mining lease must, within the relevant period, give each owner of the land the subject of the proposed mining lease or any other land necessary for access to that land, a copy of—
 - (a) the certificate; and
 - (b) the application for the mining lease, other than any part of it that states the applicant's financial and technical resources.
- (5) The chief executive may, by written notice given to the applicant, decide a way for the applicant to give the documents mentioned in subsection (4) by publishing the documents, or a notice about the documents, in a stated way.

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- (6) If the applicant publishes the documents or a notice about the documents in the stated way, the applicant is taken to have complied with subsection (4).
- (7) In this section—
 - relevant period* means the later of the following periods to end—
 - (a) 5 business days after the signing of the certificate;
 - (b) if the chief executive at any time decides a longer period—the longer period.

252A Issue of certificate of public notice

- (1) This section applies only if—
 - (a) a certificate of application for an application for a mining lease has been endorsed under section 252(2); and
 - (b) if the proposed mining lease is a mining lease to which schedule 1A, part 6, division 4, applies—
 - (i) at least 4 months have passed since the giving of the notice required under schedule 1A, section 652; or
 - (ii) a negotiated agreement under schedule 1A, part 6, division 4 has been reached.
- (2) The chief executive must, within 5 business days—
 - (a) fix the last day (the *last objection day*) for lodging objections to the application; and
 - (b) give the applicant for the mining lease a certificate of public notice in the approved form.
- (3) The last objection day must be at least 20 business days after the certificate is given.
- (4) The certificate must state the following—
 - (a) the number of the proposed mining lease;

- (b) the day and time the application for the mining lease was lodged;
 - (c) the last objection day;
 - (d) where the application or any additional documents given to the chief executive about the application may be inspected.
- (5) The chief executive must, from the giving of the certificate to the applicant until the end of the last objection day, keep a copy of the certificate available for inspection at the places the chief executive considers appropriate.

252B Applicant's obligations for certificate of public notice

- (1) The applicant for a proposed mining lease must do the following within the notice period—
- (a) post a copy of the certificate of public notice on the datum post of land the subject of the proposed mining lease (*relevant land*);
 - (b) durably engrave or mark the number of the proposed mining lease on the datum post;
 - (c) give a copy of the certificate and the application for the mining lease to—
 - (i) each owner of relevant land or any other land necessary for access to relevant land; and
 - (ii) each holder, or applicant for, an exploration permit or mineral development licence over the land for a mineral other than a mineral to which the proposed mining lease relates; and
 - (iii) the relevant local government.
- (2) For subsection (1)(c), the application for the mining lease—
- (a) does not include any part of the application stating the applicant's financial and technical resources; and

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- (b) includes any additional document about the application given by the applicant to the chief executive.
- (3) The applicant must ensure the copy of the certificate posted on the datum post remains so posted until the end of the last objection day for the application.
- (4) The applicant must, in an approved newspaper circulating generally in the area of the relevant land, publish—
 - (a) a copy of the certificate; or
 - (b) if a map or sketch plan has been approved for the publication—
 - (i) a notice in the approved form about the certificate; and
 - (ii) the map or sketch plan.
- (5) The publication must take place—
 - (a) at least 15 business days before the last objection day; or
 - (b) at an approved shorter period before the last objection day.
- (6) Despite subsections (1) to (5), the chief executive may decide an additional or substituted way for the giving or publishing of the certificate under subsection (1)(c), (4) or (5).
- (7) Written notice of the decision must be given to the applicant no later than the giving of the certificate to the applicant.
- (8) If, in the period from when subsection (1)(c) is complied with and the end of the last objection day, the applicant gives the chief executive an additional document about the application, the applicant must give a copy of the document to each person mentioned in subsection (1)(c).
- (9) In this section—
approved means approved by the chief executive.

notice period means the later of the following periods to end—

- (a) 5 business days after the certificate is given to the applicant;
- (b) if the chief executive at any time decides a longer period—the longer period.

252C Declaration of compliance with obligations

- (1) The applicant for a proposed mining lease must, within the later of the following periods to end, give the chief executive a statutory declaration as to the applicant's compliance with section 252B—
 - (a) 5 business days after the last objection day for the application for the mining lease;
 - (b) if the chief executive at any time decides a longer period—the longer period.
- (2) Until the declaration is given—
 - (a) the Land Court must not make a final recommendation to the Minister about the application for the mining lease, other than a recommendation to reject the application; and
 - (b) the Land Court may refuse to hear any matter about the application.

252D Continuing obligation to notify

- (1) This section applies for an application for a mining lease, if after the last objection day but before the hearing day for the application, the applicant gives the chief executive an additional document about the application.
- (2) The applicant must give a copy of the document to each person mentioned in section 252B(1)(c).

253 Reissue of certificate of public notice

- (1) The chief executive may reissue a certificate of public notice if the chief executive is satisfied it should be reissued—
 - (a) because of an error in its preparation; or
 - (b) because compliance with the certificate is impracticable.
- (2) If the chief executive reissues a certificate of public notice, the chief executive may extend the last date for objections to take account of the time between the issue of the original certificate and its reissue.

260 Objection to application for grant of mining lease

- (1) An entity may, on or before the last objection day for the application, lodge with the chief executive an objection in writing in the approved form.
- (2) An owner of land who attends a conference with the applicant for the grant of a mining lease may lodge an objection on or before the expiration of 5 business days after the conclusion of that conference or if the applicant for the grant of the mining lease fails to attend the conference after the day upon which the conference was convened, notwithstanding that the period for objection prescribed by subsection (1) has expired.
- (3) An objection referred to in subsection (1) or (2) shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.
- (4) Each objector to an application for the grant of a mining lease shall serve upon the applicant on or before the last date that the objector may lodge an objection to that application a copy of the objection lodged by the objector.

261 Objection may be withdrawn

- (1) An objection to an application for a mining lease may be withdrawn by the objector giving written notice of the withdrawal to—

- (a) the chief executive; and
 - (b) if the objection has been referred to the Land Court under section 265—
 - (i) the Land Court; and
 - (ii) the applicant.
- (2) A withdrawal of an objection can not be revoked.

265 Referral of application and objections to Land Court

- (1) Subsection (2) applies if—
- (a) a properly made objection is made for an application for a mining lease; and
 - (b) the application relates to an application (an *environmental authority application*) under the Environmental Protection Act for an environmental authority for a mining activity relating to a mining lease; and
 - (c) either—
 - (i) an objection notice for a submission about the environmental authority application is given to the EPA administering authority under the Environmental Protection Act, section 182(2); or
 - (ii) the applicant for the environmental authority application has requested under the Environmental Protection Act, section 183(1), that the application be referred to the Land Court.
- (2) The chief executive must, within 10 business days after the later of the following, refer the application for the mining lease and all properly made objections to it to the Land Court for hearing—
- (a) the last objection day for the application;

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- (b) if an objection is lodged after the last objection day under section 260(2)—the end of the period for lodging an objection under that subsection;
 - (c) the receipt by the EPA administering authority of the last objection notice for the environmental authority application under the Environmental Protection Act, section 182;
 - (d) the receipt by the EPA administering authority of a request for referral for the environmental authority application under the Environmental Protection Act, section 183.
- (3) Subsection (4) applies if a properly made objection is made for an application for a mining lease, other than an application mentioned in subsection (1).
- (4) The chief executive must, within 10 business days after the later of the following, refer the application and all properly made objections to it to the Land Court for hearing—
 - (a) the last objection day for the application;
 - (b) if an objection is lodged after the last objection day under section 260(2)—the end of the period for lodging an objection under that subsection.
- (5) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant;
 - (c) each person who has lodged a properly made objection to the application.
- (6) The hearing date must be at least 20 business days after the last objection day for the application.
- (7) If the Land Court fixes a date for the hearing and all properly made objections are withdrawn before the hearing starts, the Land Court may remit the matter to the chief executive.

(8) In this section—

properly made objection means an objection lodged under section 260 that has not been withdrawn.

266 Chief executive may recommend rejection of application for noncompliance

If, at any time after a certificate of public notice is given for a mining lease, the chief executive is of the opinion that an applicant for the grant of the mining lease has not complied with any requirement placed upon the applicant by or under this Act in respect of the application, the chief executive may recommend to the Minister that the application be rejected.

267 Minister may reject application at any time

The Minister, whether or not the chief executive has so recommended, may at any time reject an application for the grant of a mining lease notwithstanding that the application has not been the subject of a hearing by the Land Court if—

- (a) the Minister is satisfied that the applicant has not complied with any requirement placed upon the applicant by or under this Act in respect of the application; or
- (b) the Minister considers that it is not in the public interest for the mining lease to be granted.

268 Hearing of application for grant of mining lease

- (1) On the date fixed for the hearing of the application for the grant of the mining lease and objections thereto, the Land Court shall hear the application and objections thereto and all other matters that pursuant to this part are to be heard, considered or determined by the Land Court in respect of that application at the one hearing of the Land Court.
- (2) At a hearing pursuant to subsection (1) the Land Court shall take such evidence, shall hear such persons and inform itself

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in such manner as it considers appropriate in order to determine the relative merits of the application, objections and other matters and shall not be bound by any rule or practice as to evidence.

- (3) The Land Court shall not entertain an objection to an application or any ground thereof or any evidence in relation to any ground if the objection or ground is not contained in an objection that has been duly lodged in respect of the application.
- (4) The Land Court may direct an inspection or view of the land the subject of the application.
- (5) Nothing in subsection (1) shall prevent the adjournment from time to time of a hearing.
- (6) Nothing in subsection (1) shall prevent the question of compensation being determined by the Land Court pursuant to section 279.
- (7) The Minister may require at any time the Land Court to advise the reasons why a hearing under this section has not been finalised.
- (8) The Land Court on the application of an objector or owner may award costs against an applicant for a mining lease who abandons the application or does not pursue the application at a hearing.
- (9) The Land Court on the application of an applicant for a mining lease may award costs against an objector who withdraws the objection or does not pursue the objection at a hearing.
- (10) In this section—
application includes any additional document about the application given by the applicant to the chief executive.

269 Land Court's recommendation on hearing

- (1) Upon the hearing by the Land Court under this part of all matters in respect of an application for the grant of a mining lease, the Land Court shall forward to the Minister—
 - (a) any objections lodged in relation thereto; and
 - (b) the evidence adduced at the hearing; and
 - (c) any exhibits; and
 - (d) the Land Court's recommendation.

Note—

For other relevant provisions about forwarding documents, see section 386O.

- (2) For subsection (1)(d), the Land Court's recommendation must consist of—
 - (a) a recommendation to the Minister that the application be granted or rejected in whole or in part; and
 - (b) if the application relates to land that is the surface of a reserve and the owner of the reserve has not consented to the grant of a mining lease over the surface area, the following—
 - (i) a recommendation to the Minister as to whether the Governor in Council should consent to the grant over the surface area;
 - (ii) any conditions to which the mining lease should be subject.
- (3) A recommendation may include a recommendation that the mining lease be granted subject to such conditions as the Land Court considers appropriate, including a condition that mining shall not be carried on above a specified depth below specified surface area of the land.
- (4) The Land Court, when making a recommendation to the Minister that an application for a mining lease be granted in whole or in part, shall take into account and consider whether—

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- (a) the provisions of this Act have been complied with; and
- (b) the area of land applied for is mineralised or the other purposes for which the lease is sought are appropriate; and
- (c) if the land applied for is mineralised, there will be an acceptable level of development and utilisation of the mineral resources within the area applied for; and
- (d) the land and the surface area of the land in respect of which the mining lease is sought is of an appropriate size and shape in relation to—
 - (i) the matters mentioned in paragraphs (b) and (c); and
 - (ii) the type and location of the activities proposed to be carried out under the lease and their likely impact on the surface of the land; and
- (e) the term sought is appropriate; and
- (f) the applicant has the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease; and
- (g) the past performance of the applicant has been satisfactory; and
- (h) any disadvantage may result to the rights of—
 - (i) holders of existing exploration permits or mineral development licences; or
 - (ii) existing applicants for exploration permits or mineral development licences; and
- (i) the operations to be carried on under the authority of the proposed mining lease will conform with sound land use management; and
- (j) there will be any adverse environmental impact caused by those operations and, if so, the extent thereof; and
- (k) the public right and interest will be prejudiced; and

- (l) any good reason has been shown for a refusal to grant the mining lease; and
 - (m) taking into consideration the current and prospective uses of that land, the proposed mining operation is an appropriate land use.
- (5) Where the Land Court recommends to the Minister that an application for the grant of a mining lease be rejected in whole or in part the Land Court shall furnish the Minister with the Land Court's reasons for that recommendation.
- (6) If—
- (a) the application is for the grant of a coal mining lease; and
 - (b) under section 318BA, a preference decision is required; the Land Court can not recommend that the lease not be granted so as to give preference to petroleum development.

271 Criteria for deciding mining lease application

In considering an application for the grant of a mining lease, the Minister must consider—

- (a) any Land Court recommendation for the application; and
- (b) the matters mentioned in section 269(4); and
- (c) any native title issues decision made by the tribunal under schedule 1A, part 6, division 4 or any substituted decision made by the Minister under schedule 1A, part 6, division 4 in overruling the tribunal's decision.

271A Deciding mining lease application

- (1) The Minister may, after considering the criteria under section 271 for a mining lease application, decide to—
 - (a) grant the applicant a mining lease for the whole or part of the land in the application; or

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- (b) reject the application; or
 - (c) refer the matter to the Land Court to conduct a hearing or further hearing on the application generally or on specific matters raised by the Minister.
- (2) However, a mining lease may only be granted for land that is the surface of a reserve if—
- (a) the owner of the land has given written consent to the grant over the surface area and the applicant has lodged the consent with the chief executive; or
 - (b) the Governor in Council has consented to the grant over the surface area.

Note—

If the application relates to acquired land, see also section 10AAC.

- (3) If a mining lease is granted for only part of the land, the application is taken to have been rejected for the rest of the land.

271B Steps to be taken after application decided

- (1) This section applies if a mining lease is rejected in whole or in part or the Minister refers the matter to the Land Court (the *referral*).
- (2) The Minister must, as soon as practicable, give the applicant a written notice stating the rejection or the referral and the reasons for it.

272 Minister may remit to Land Court for additional evidence

- (1) This section applies if the Minister, under section 271A(1)(c), refers the matter to the Land Court.
- (2) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;

- (b) the applicant;
 - (c) each person who has lodged an objection to the application in accordance with section 260.
- (3) The date must be at least 20 business days after the day the Land Court fixes the date.

273 Restriction on grant of mining lease that does not include surface of land

A mining lease over land shall not be granted unless—

- (a) it includes such an area of the surface of that land; or
- (b) where it does not include an area of the surface of that land, the applicant is the holder of such an adjoining mining lease;

as will enable the holder to carry out the purposes for which the firstmentioned mining lease is granted.

274 Holder of a mining lease to mark boundary posts

Unless the area of a mining lease has been surveyed, the holder of the mining lease shall, within 5 business days of the date of grant of the mining lease, engrave or in some way durably mark on every boundary post of the area of the mining lease or cairn erected as prescribed in lieu thereof the number of that mining lease and shall maintain those posts or cairns duly engraved or marked while the mining lease subsists and the area is not surveyed.

275 Application for inclusion of surface of area of mining lease

- (1) Notwithstanding section 232, the holder of a mining lease that does not include any part of the surface of the area of that mining lease or that includes a part only of the surface of the area of that mining lease may at any time apply for an

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additional part of the surface of that area to be included in the mining lease.

- (2) An application made under this section shall be made and dealt with in the same manner as if it were an application for a mining lease made under this part, and for that purpose—
 - (a) the posting of any notice on a conspicuous part of the area applied for shall be sufficient compliance with the provisions of this Act relating to the posting of that notice on the land; and
 - (b) the certificate of application and the certificate of public notice must state, as the number of the proposed mining lease, the number of the existing lease together with the words ‘addition of surface area’.
- (3) If the application is granted—
 - (a) the mining lease must be amended to give effect to the approval and the conditions stated in it; and
 - (b) particulars of the approval must be recorded in the register and endorsed on the relevant instrument of mining lease.

276 General conditions of mining lease

- (1) Each mining lease shall be subject to—
 - (a) a condition that the holder shall use the area of the mining lease bona fide for the purpose for which the mining lease was granted and in accordance with this Act and the conditions of the mining lease and for no other purpose; and
 - (b) a condition that the holder must carry out improvement restoration for the mining lease; and
 - (c) a condition that the holder, prior to the termination of the mining lease for whatever cause, shall remove any building or structure purported to be erected under the authority of the mining lease and all mining equipment

and plant, on or in the area of the mining lease unless otherwise approved by the Minister; and

- (d) a condition that without the prior approval of the Minister the holder shall not obstruct or interfere with any right of access had by any person in respect of the area of the mining lease; and
- (e) a condition that the holder shall furnish as required under this Act all prescribed reports, returns, documents and statements whatever; and
- (f) a condition that the holder give materials obtained under the holder's mining operations to the Minister at the times, in the way and in quantities the Minister reasonably requires by written notice to the holder; and
- (g) where the mining lease is in respect of land that is a reserve, a condition that the holder shall comply with the terms and conditions upon which the consent of the owner or the Governor in Council to the grant of the mining lease was given; and
- (h) a condition that the holder shall maintain during the term of the lease the marking out of the area of the mining lease including any survey pegs but that boundary posts or cairns need not be maintained after the area has been surveyed; and
- (i) a condition that the holder shall make all payments of compensation and comply with all terms of any agreement or determination relating to compensation at the time or times as agreed or determined pursuant to section 279, 280, 281 or 282; and
- (j) a condition that the holder—
 - (i) shall pay the rental as prescribed; and
 - (ii) shall pay the royalty as prescribed; and
 - (iii) shall pay all local government rates and charges lawfully chargeable against the holder in respect of the area of the mining lease; and

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- (iv) shall deposit as required by the Minister any security from time to time under this Act; and
 - (k) a condition that the holder shall comply with this Act and other mining legislation; and
 - (l) such other conditions as are prescribed; and
 - (m) such other conditions as the Minister determines.
- (1A) Without limiting subsection (1), the Minister may determine a condition of a mining lease if the Minister considers the condition is in the public interest.
- (2) The Minister may grant a mining lease without the imposition of the conditions specified in subsection (1)(c) and (h).
- (2A) If a mining lease is granted over land that includes a wild river area, the mining lease is subject to any relevant conditions stated in the wild river declaration for the area.
- (3) A mining lease may be subject to a condition that mining operations under the mining lease shall commence within a specified period after its grant or as otherwise approved in writing by the Minister.
- (4) Conditions may be imposed in respect of a mining lease that require compliance with specified codes or industry agreements.
- (5) Despite subsections (1) to (4), a condition must not be determined, imposed or prescribed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining lease.
- (7) A mining lease granted after the commencement of the *Mineral Resources Amendment Act 1998* is subject to a condition that the holder comply with the At Risk agreement.

276A Consultation and negotiated agreement conditions

- (1) This section applies if—

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- (a) a negotiated agreement under schedule 1A, part 6, division 4, provides for the grant, renewal or variation of, or another act concerning, a mining lease; and
 - (b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and
 - (c) the Minister consents to the mining lease being subject to 1 or more of the conditions (the *consent conditions*); and
 - (d) the act is done.
- (2) The mining lease is subject to the consent conditions.

276B Other agreement conditions

- (1) This section applies if—
- (a) a registered indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mining lease; and
 - (b) the State is a party to the agreement; and
 - (c) the agreement includes a requirement that, if the act is done, the mining lease must be subject to conditions stated in the agreement (the *stated conditions*); and
 - (d) the act is done.
- (2) The mining lease is subject to the stated conditions.

277 Provision of security

- (1) The holder of a mining lease must deposit security for the lease to ensure the holder—
- (a) complies with the conditions of the lease; and
 - (b) complies with this Act; and

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- (c) rectifies actual damage that may be caused by activities under the lease to pre-existing improvements for the lease; and
 - (d) pays amounts (other than penalties) payable under this Act to the State.
- (2) The Minister must fix the amount of security to be deposited under subsection (1).
- (3) Despite subsection (2), the Minister may, at any time and in the Minister's absolute discretion, decide that the holder must deposit extra security.
- (4) Before the holder of a mining lease starts operations under the lease, the holder must deposit the amount fixed under subsection (2) or, with the Minister's approval, security of a kind mentioned in subsection (9) for the amount.
- (5) The Minister, if satisfied that any condition of the mining lease or any provision of this Act has not been complied with or that damage referred to in subsection (1)(c) has been caused by any person purporting to act under the authority of the mining lease or who enters land upon the instruction of the holder, the Minister may require that person to take all action necessary to rectify that noncompliance or damage and, save where the person was not the holder and was not upon the land with the holder's approval at the time the damage was caused, may utilise for that purpose the whole or part of the amount of the security deposited in respect of that mining lease.
- (6) If the amount of the security deposited by the holder of a mining lease is not earlier reviewed pursuant to subsection (7), the Minister shall review that amount at the expiration of 5 years from the grant of the mining lease or from the previous review.
- (7) On the use under this section of any part of the security deposited in respect of a mining lease, the Minister may review the amount of the security deposited by the holder in respect of that mining lease.

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- (8) If, upon that review, the Minister considers that a further amount of security should be deposited in respect of that mining lease, the Minister shall require the holder of the mining lease, within the time specified by the Minister to deposit a further specified security.
- (9) The Minister may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the Minister or other form of security acceptable to the Minister as the whole or part of the security to be deposited under this section.
- (10) It shall be a condition of a mining lease that the holder shall deposit security or further security from time to time in accordance with a requirement made as provided by this section.
- (11) Where a mining lease has expired or been terminated, the Minister shall, subject to subsection (13), refund to the holder of the mining lease (or as the holder in writing directs) any security deposited and not utilised as provided by subsection (5) less any amounts determined by the Minister to be retained towards—
- (a) rectification of any matters caused by the noncompliance with any of the conditions of the mining lease or with any order or direction made or given by the Minister under this Act and directed to the holder; and
 - (b) amounts (other than penalties) the holder owes to the State under this Act (whether before or after the termination); and
 - (c) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the mining lease.
- (12) For matters mentioned in subsection (11), security must be applied to each of the matters in turn.
- (13) If the Minister accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution,

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insurance company or other credit provider as security under this section, any amount payable to the holder under subsection (11) must be refunded to the financial institution, insurance company or credit provider and not to the holder of the mining lease to which the security relates.

278 Utilisation of security deposit towards subsequent mining lease

If the holder of a mining lease or an expired mining lease makes application for a further mining lease, the Minister may, instead of refunding the whole or part of the security deposited in respect of the existing or expired mining lease, retain that security or part thereof (together with any further security fixed by the Minister) as the security (in which case it shall be taken to be or to be part of the security) deposited by the applicant in respect of the further mining lease.

278A Land Court's jurisdiction for At Risk agreement

- (1) The Land Court has jurisdiction to hear and decide a proceeding about the following matters under a condition of a mining lease requiring compliance with the At Risk agreement—
 - (a) whether hardship, as defined under the agreement, exists;
 - (b) the fair market value of a property for the purposes of the agreement.
- (2) In a proceeding under subsection (1)(a), the Land Court must consider—
 - (a) all relevant matters put before the committee in any mediation under the agreement; and
 - (b) the final recommendation made by the committee in the mediation.
- (3) In a proceeding, a copy of the agreement as at a particular date, certified as a true copy by the chief executive, is

admissible as evidence of the agreement at that date until the contrary is proved.

- (4) Despite the *Limitation of Actions Act 1974*, a proceeding must start—
- (a) for a matter that arose before the commencement of this section—within 1 year after the commencement; or
 - (b) for a matter that arose after the commencement of this section—within 1 year after the committee gives notice of its final recommendation about whether hardship, as defined under the agreement, exists.
- (5) In this section—
- committee* means the committee mentioned in the At Risk agreement.

279 Compensation to be settled before grant or renewal of mining lease

- (1) A mining lease shall not be granted or renewed unless—
- (a) compensation has been determined (whether by agreement or by determination of the Land Court) between the applicant and each person who is the owner of land the surface of which is the subject of the application and of any surface access to the mining lease land; or
 - (b) there is no person (other than the applicant) who is the owner of any of the land referred to in paragraph (a);
- and the conditions of the agreement or determination have been or are being complied with by the applicant.
- (2) For the purposes of subsection (1)(a) where the Land Court makes a determination of an amount of compensation, that compensation is not determined until—
- (a) where no appeal against that determination is lodged within the period prescribed therefor—upon the expiration of that period; or

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- (b) where an appeal is duly lodged against that determination—upon the determination of the appeal.
- (3) An agreement made pursuant to subsection (1)(a) shall not be effective unless and until—
 - (a) it is in writing signed by or on behalf of the parties; and
 - (b) it is filed.
- (4) If an agreement referred to in subsection (3) is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.
- (5) If compensation has not been agreed upon or the question of the amount of compensation has not been referred to the Land Court for determination pursuant to the proceeding under section 281 in respect of an application for the grant of a mining lease upon the expiration of 3 months from—
 - (a) in the case where the land or a part of land the subject of the application is a reserve and the Governor in Council consents to the grant in respect of that land—the date of the consent; or
 - (b) if paragraph (a) does not apply and no objection to the application is lodged—the last day that an objection to the application could be lodged; or
 - (c) in any other case—the date the Land Court recommends the grant of the mining lease;

whichever is the latest, the chief executive shall refer the question of the amount of compensation payable to the Land Court which shall make a determination in accordance with section 281.

279A Referral to Land Court of issue of compensation if not settled within 3 months after term of lease ends

- (1) Subsection (2) applies if—
 - (a) compensation is to be determined under section 279(1)(a) for the renewal of a mining lease; and

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- (b) the compensation is not determined within 3 months after the current term of the lease would, apart from section 286C, end.
 - (2) The chief executive must refer the issue of compensation to the Land Court for its determination.
 - (3) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant;
 - (c) each of the land owners involved in the determination under section 279(1).
 - (4) The date must be at least 20 business days after the day the Land Court fixes the date.
 - (5) The Land Court may hear and determine the matter as if the referral were an application made under section 281.

280 Compensation for owner of land where surface area not included

- (1) An owner of land the subject of a mining lease where no part of the surface area of that land is included in the lease may agree with the holder of the mining lease as to compensation for any damage caused to the surface of the land.
- (2) An agreement made pursuant to subsection (1) shall not be effective unless and until—
 - (a) it is in writing signed by or on behalf of the parties; and
 - (b) it is filed.
- (3) If an agreement referred to in subsection (2) is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.

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281 Determination of compensation by Land Court

- (1) At any time before an agreement is made pursuant to section 279 or 280, a person who could be a party to such agreement may apply in writing to the chief executive to have the Land Court determine the amount of compensation and the terms, conditions and times of payment thereof.
- (2) The Land Court is hereby authorised to hear and determine matters referred to in subsection (1).
- (3) Upon an application made under subsection (1), the Land Court shall settle the amount of compensation an owner of land is entitled to as compensation for—
 - (a) in the case of compensation referred to in section 279—
 - (i) deprivation of possession of the surface of land of the owner;
 - (ii) diminution of the value of the land of the owner or any improvements thereon;
 - (iii) diminution of the use made or which may be made of the land of the owner or any improvements thereon;
 - (iv) severance of any part of the land from other parts thereof or from other land of the owner;
 - (v) any surface rights of access;
 - (vi) all loss or expense that arises;as a consequence of the grant or renewal of the mining lease; and
 - (b) in the case of compensation referred to in section 280—
 - (i) diminution of the value of the land of the owner or any improvements thereon;
 - (ii) diminution of the use made or which may be made of the land of the owner or any improvements thereon;
 - (iii) all loss or expense that arises;

as a consequence of the grant or renewal of the mining lease.

- (4) In assessing the amount of compensation payable under subsection (3)—
- (a) where it is necessary for the owner of land to obtain replacement land of a similar productivity, nature and area or resettle himself or herself or relocate his or her livestock and other chattels on other parts of his or her land or on the replacement land, all reasonable costs incurred or likely to be incurred by the owner in obtaining replacement land, the owner's resettlement and the relocation of the owner's livestock or other chattels as at the date of the assessment shall be considered;
 - (b) no allowance shall be made for any minerals that are or may be on or under the surface of the land concerned;
 - (c) if the owner of land proves that the status and use currently being made (prior to the application for the grant of the mining lease) of certain land is such that a premium should be applied—an appropriate amount of compensation may be determined;
 - (d) loss that arises may include loss of profits to the owner calculated by comparison of the usage being made of land prior to the lodgement of the relevant application for the grant of a mining lease and the usage that could be made of that land after the grant;
 - (e) an additional amount shall be determined to reflect the compulsory nature of action taken under this part which amount, together with any amount determined pursuant to paragraph (c), shall be not less than 10% of the aggregate amount determined under subsection (3).
- (5) In any case the Land Court may determine the amounts and the terms, conditions and times when payments aggregating the total compensation payable shall be payable.

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- (6) An amount of compensation decided by agreement between the parties, or by the Land Court, is binding on the parties and the parties' personal representatives, successors and assigns.
- (7) The Land Court shall give written notice of its determination to all parties and may make such order as to costs between the parties to the determination as it thinks fit.

282 Appeal against Land Court's determination upon compensation

- (1) A party aggrieved by a determination of the Land Court made under section 281 may, within 20 business days of the date of that determination or within such further period as the Land Appeal Court, on the application of that party in that behalf prior to the lodgement of the appeal, considers appropriate in any particular circumstances, appeal against the determination to the Land Appeal Court.
- (2) The appeal shall be instituted by, within the time and in the manner prescribed—
 - (a) lodging in the Land Court, written notice of appeal which shall include the grounds of appeal; and
 - (b) serving copies of the notice of appeal on the chief executive and each other party.
- (3) The Land Appeal Court shall have jurisdiction to hear and determine an appeal under this section.
- (4) In deciding an appeal, the Land Appeal Court must consider the things relevant to the appeal that the Land Court was required to consider when making the decision appealed against.
- (5) Upon hearing an appeal under subsection (1) the Land Appeal Court may—
 - (a) vary the determination of the Land Court in such way as it thinks just; or
 - (b) disallow the appeal and confirm the determination of the Land Court;

and may make such order as to costs of the appeal as it thinks fit.

- (6) The Land Appeal Court shall not admit further evidence upon an appeal from a determination of the Land Court under subsection (1) unless—
 - (a) it is satisfied that admission of the evidence is necessary to avoid grave injustice and there is sufficient reason that the evidence was not previously adduced; or
 - (b) the appellant and respondent agree to its admission.
- (7) The determination of the Land Appeal Court on appeal shall be final and conclusive.

282A Security for costs of appeal

- (1) This section applies when an appeal under section 282 is lodged.
- (2) A further step can not be taken in the appeal until security for the costs of the appeal has been lodged under this section.
- (3) The registrar of the Land Court must, within 10 business days, decide the form and amount of the security.
- (4) The registrar must give the appellant written notice of the decision as soon as practicable after making it.
- (5) The appellant must lodge the security in the decided form and amount within 15 business days after the giving of the notice.
- (6) If the appellant does not comply with subsection (5), the appeal lapses.

283 Public trustee may act in certain circumstances

- (1) If there is doubt as to the identity of the owner of land or the owner of land can not be found, the Land Court may determine that the public trustee shall represent the owner for the purpose of any negotiation or proceeding under section 279, 280, 281 or 282.

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- (2) Any action taken or thing done or omitted to be done by the public trustee as representative of the owner of land pursuant to subsection (1) shall be taken for all purposes to be taken, done or omitted by that owner.
- (3) Where, pursuant to subsection (1) the public trustee represents an owner of land, for the purposes of this part any moneys paid to the public trustee under any agreement or determination made under section 279, 280, 281 or 282 shall be deemed to have been paid to the owner.

283A Agreement to amend compensation

- (1) This section applies if—
 - (a) compensation (the *original compensation*) has been agreed under section 279 or 280 for a mining lease; or
 - (b) compensation (also the *original compensation*) has been determined under section 281 or 282 for a mining lease and there has, since the determination, been a material change in circumstances for the lease.

Example of a material change in circumstances—

a different mining method that changes the impact of mining operations under the lease

- (2) The mining lease holder and each owner in relation to the lease mentioned in section 279(1)(a) or 280(1) may, by signed writing, agree to amend the original compensation (the *amendment agreement*).
- (3) However, the amendment agreement does not take effect until it is filed with the registrar.
- (4) After the amendment agreement takes effect, the original compensation, as amended by the agreement, is for this Act, other than this section, taken to be the original compensation.

283B Review of compensation by Land Court

- (1) This section applies if—

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- (a) compensation has been agreed under section 279 or 280 or determined under section 281 or 282 for a mining lease (the *original compensation*); and
 - (b) there has, since the agreement or determination, been a material change in circumstances for the mining lease.

Example of a material change in circumstances—

a different mining method that changes the impact of mining operations under the lease

- (2) The mining lease holder or any owner in relation to the mining lease mentioned in section 279(1)(a) or 280(1) may apply to the Land Court for it to review the original compensation.
- (3) Sections 281(3) to (7), 282 and 282A apply, with necessary changes, to the review as if it were an application under section 281(1).
- (4) The Land Court may, after conducting 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, other than any part of it that consists of an additional amount under section 281(4)(e); and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment agreement for the original compensation; and
 - (c) any change in the matters mentioned in section 281(3) and (4) since the original compensation was agreed or determined.
- (6) If the decision is to amend the original compensation, the original compensation, as amended under the decision, is for this Act, other than this section, taken to be the original compensation.

284 Initial term of mining lease

- (1) The initial term of a mining lease is the period approved by the Minister, unless the lease is sooner terminated.
- (2) Despite subsection (1), the term of the mining lease must not be for a period longer than the period for which compensation has been agreed or determined under section 279, 281 or 282.
- (3) The initial term of a mining lease commences on the first day of the month that next follows the day the mining lease is granted.
- (4) From the grant of a mining lease to the commencement of the initial term thereof the holder shall have all the entitlements, powers, duties and functions that the holder has during the term of the lease except section 290 shall not apply.

285 Mining lease may be specified it is not renewable

- (1) Subsection (2) applies if the Minister is satisfied the land the subject of an application for grant or renewal of a mining lease is, or will be, required for some purpose other than mining.
- (2) The Minister may grant the lease or renewal subject to a condition that the holder is not entitled to have the mining lease renewed or further renewed.
- (3) Where a mining lease is granted or renewed subject to a condition under subsection (2), the Minister must give written notice of the reasons for the decision.
- (4) Where a mining lease is renewed subject to a condition referred to in subsection (2) that condition shall be endorsed on the instrument of lease by the chief executive, if the instrument of lease has been issued.

286 Application for renewal of mining lease

- (1) The holder of a mining lease, including a lease subject to a condition mentioned in section 285, may, within the renewal

period, apply to the Minister for a renewal of the lease by lodging an application with the chief executive.

- (2) The application must be—
- (a) made in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation; and
 - (c) accompanied by a statement about the following matters—
 - (i) the term for which the mining lease is to be renewed;
 - (ii) the reason for seeking the renewal;
 - (iii) if the lease was granted for a purpose mentioned in section 234(1)(a)—whether the area the subject of the application contains workable quantities of mineral or mineral bearing ore;
 - (iv) if the lease was granted for a purpose mentioned in section 234(1)(b)—the particular purpose for which the renewal is sought;
 - (v) if a mining program is proposed to be carried out under the renewed lease—the proposed mining program and its method of operation;
 - (vi) whether the operations to be carried on during the term of the renewed lease are an appropriate land use and will conform with sound land use management;
 - (vii) whether the land and surface area in relation to which the renewal is sought is of an appropriate size and shape for the activities proposed to be carried out under the renewed lease;
 - (viii) the financial and technical resources available to the applicant to carry on mining operations under the renewed lease;

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- (ix) in relation to the parcels of land the whole or part of which are the subject of the application—
 - (A) a description of the parcels of land; and
 - (B) the current use of the land; and
 - (C) the name and address of the owner of the land (the *primary land*) and the name and address of any other land which may be used to access the primary land.
- (3) In this section—
 - renewal period* means the period that is—
 - (a) at least 6 months, or any shorter period allowed by the Minister in the particular case, before the current term of the lease expires; and
 - (b) not more than 1 year before the current term expires.

286A Decision on application

- (1) Subject to schedule 1A, part 6, division 5, the Minister may grant an application for the renewal of a mining lease if satisfied of each of the following—
 - (a) the holder has complied with—
 - (i) the terms of the lease; and
 - (ii) this Act in relation to the lease;
 - (b) the area of the lease—
 - (i) still contains workable quantities of mineral or mineral bearing ore; or
 - (ii) is otherwise required for purposes for which the lease was granted;
 - (c) the proposed term of the renewed lease is appropriate;
 - (d) having regard to the current and prospective uses of the area of the lease, the operations to be carried on during the renewed term of the lease—

- (i) are an appropriate land use; and
- (ii) will conform with sound land use management;
- (e) the land and surface area for which the renewal is sought is of an appropriate size and shape in relation to the activities proposed to be carried out;
- (f) the financial and technical resources available to the holder to carry on mining operations under the renewed lease are appropriate;
- (g) the public interest will not be adversely affected by the renewal;
- (h) for a lease subject to a condition mentioned in section 285—the lease should be renewed.

Note—

If the application relates to acquired land, see also section 10AAC.

- (2) Subsection (3) applies if—
 - (a) the application relates to land that is the surface of a reserve; and
 - (b) the Governor in Council's consent was given to the grant of the mining lease; and
 - (c) the owner of the reserve does not give written consent to the renewal.
- (3) Despite subsection (1), the Minister can not grant the application if the Governor in Council has not consented to the renewal.
- (4) The renewal may be granted for the further term, decided by the Minister, that is not longer than the period for which compensation has been agreed or determined under section 279, 281 or 282.
- (5) The renewed lease is subject to—
 - (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Minister.

[s 286C]

- (6) Without limiting subsection (5), the Minister may decide a condition of the renewed lease if the Minister considers the condition is in the public interest.
- (7) The Minister may refuse the application if the Minister—
 - (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the application should not be refused; and
 - (b) after considering the holder's response, is satisfied the application should be refused.
- (8) Without limiting subsection (7)(b), the Minister may refuse the renewal if the Minister considers the renewal is not in the public interest.
- (9) As soon as practicable after deciding the application, the Minister must give the holder a written notice stating—
 - (a) the decision; and
 - (b) if the decision is to grant the renewal on conditions or refuse the renewal—the reasons for the decision.

286C Continuation of lease while application being dealt with

- (1) Subsection (2) applies if—
 - (a) a properly made application for renewal of a mining lease is not withdrawn, refused or granted before the lease's expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the lease and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the lease conditions.
- (2) The lease continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the

expiry day until the application is withdrawn, refused or granted.

286D When term of renewed lease starts

- (1) If a mining lease is renewed before its expiry day ends, the term of the renewed lease starts on the day after the expiry day.
- (2) If the lease is renewed after the expiry day, the term of the renewed lease is taken to have started on the day after the expiry day.

286E When new conditions of renewed lease start

- (1) If a renewed mining lease is subject to conditions (the *new conditions*) different from, or not included in, the lease conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed lease;
 - (b) the day the renewal is granted.
- (2) However, if the lease is continued in force under section 286C, the holder must pay rental on the lease from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mining lease had been renewed on the day after the expiry day.
- (3) Subsection (2) applies even though payment of rental may be a condition of the lease.

286F Renewal of lease must be in name of last recorded transferee

- (1) This section applies if a transfer of a mining lease is registered under section 318AAT—
 - (a) after the date on which an application for renewal of the lease is made; and

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- (b) before the application is disposed of by the Minister.
- (2) Any renewal granted on the application must be in the name of the transferee under the last transfer registered before the grant of the renewal.

287 Notice of rejection of renewal application

If the Minister decides to reject an application to renew a mining lease, the Minister must promptly give the applicant a written notice stating the decision and the reasons for it.

288 Holder to notify owner of grant or renewal of mining lease

- (1) The holder of a mining lease must notify each owner of land in the area of the lease of the grant or renewal of the lease.
- (2) The notice must be given within 20 business days after the holder receives notice of the grant or renewal.
- (3) If the lease is for a purpose mentioned in section 234(1)(b), the reference in subsection (1) to the owner of land includes the holder of an exploration permit, mineral development licence or mining lease over the land.

289 Chief executive may issue instrument of mining lease

- (1) If the Minister grants or renews a mining lease, the chief executive may issue an instrument of lease for the mining lease.
- (2) The instrument of lease may be issued even though the boundaries of the land have not been surveyed.
- (3) For an instrument of lease mentioned in subsection (2)—
 - (a) the area and boundaries of the land must be described as accurately as possible; and
 - (b) a defect in the description of the land does not, of itself, invalidate or otherwise affect the lease.

290 Rental payable on mining lease

- (1) Upon the grant of a mining lease rental shall first be payable thereon with respect to the period from the commencement of the term of the mining lease to 31 August of that year (the *first rental period*) and shall be paid within 20 business days (or such longer period as the Minister in the particular case approves) of the grant of the mining lease.
- (2) The amount of the rental payable in respect of the first rental period shall be an amount that bears to the rental payable for a rental year prescribed pursuant to subsection (4) for the rental year in which the first rental period falls the same proportion that the number of whole calendar months of the first rental period bears to 12.
- (3) In respect of each rental year or part thereof of the term of a mining lease (other than the first rental period) a full rental year's rental shall be payable in advance not later than 31 August of the previous rental year.
- (4) If the full rental payable for a rental year is paid in advance, the amount of the rental shall be the amount prescribed under a regulation for that rental year.
- (5) If, for a particular rental year, rental is not paid in advance—
 - (a) the chief executive shall, prior to 30 September of that rental year, notify the holder of and any person holding a recorded interest in the mining lease that the rental has not been paid and of the amount of rental payable as prescribed by paragraph (b); and
 - (b) the amount of the full rental payable for the rental year shall be payable before 1 December of that rental year and shall be an amount equal to the amount prescribed under a regulation for that rental year plus an amount equal to 15% of that prescribed amount.
- (6) Upon the renewal of a mining lease, no further rental shall be payable in respect of the period that, if the renewal was a grant of a mining lease, would be the first rental period, except where that period commences on 1 September.

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- (7) Except as provided in subsection (9), where in any rental year a mining lease is surrendered or terminated through effluxion of time and is not renewed there shall be refundable to the last holder of the mining lease an amount that bears to the amount of the rental that was paid in respect of that rental year the same proportion that the number of whole calendar months from—
- (a) the date of surrender or termination; or
 - (b) the date of rejection of the application for renewal;
- whichever is the later, to 31 August of that rental year bears to 12.
- (8) Subsections (3) to (7) apply to a mining lease continued in force under section 286C, with all necessary changes and with any changes prescribed by regulation, in the same way as they would apply if the lease had been renewed on the last day of its term.
- (9) No amount shall be refunded pursuant to subsection (7) where a mining lease is surrendered within its first rental period after its original grant.

290A Application of GST to rents for certain mining leases

- (1) This section applies to a lease, however called, that, under the repealed schedule to this Act, section 3, became a mining lease under this Act.

Editor's note—

The repealed schedule to this Act was repealed by the *Offshore Minerals Act 1998*, section 446 and schedule 4, section 4.

- (2) If any rent payable under the lease after 30 June 2005 is for a supply for which GST is payable, the rent payable is the total of—
- (a) the rent that would have been payable if the rent were not for a supply for which GST is payable; and
 - (b) 10% of the rent that would have been payable if the rent were not for a supply for which GST is payable.

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- (3) Subsection (2) applies despite the provisions of the mining lease.

294 Variation of conditions of mining lease

- (1) The conditions to which a mining lease is subject may be varied by the Minister if—
- (a) the varied conditions are not inconsistent with this Act; and
 - (b) the holder of the mining lease gives the Minister written agreement.
- (2) However, the Minister must not vary a condition of a mining lease if the condition as varied is the same or substantially the same as, or inconsistent with, a relevant environmental condition for the lease.
- (3) Without limiting subsection (1), the Minister may refuse to vary a condition of a mining lease if the Minister considers the variation is not in the public interest.
- (4) A mining lease that is duly varied pursuant to subsection (1) shall thereafter until again varied, be subject to its conditions as so varied.
- (5) Particulars of every variation of a mining lease shall be endorsed on the instrument of lease by the chief executive if the lease has been issued.

295 Variation of mining lease for accuracy etc.

- (1) The Minister may vary a mining lease for all or any of the following reasons—
- (a) the boundaries and area of the mining lease have been more accurately worked out and described by survey or another method approved by the Minister;
 - (b) the lease is contiguous to another mining lease and—

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- (i) the holders of the mining leases have agreed to exchange areas adjoining a part of a boundary common to both mining leases; and
 - (ii) the Minister has approved the exchange;
 - (c) new facts have arisen since the grant of the mining lease that satisfy the Minister that the variation should be made to more accurately reflect the holder's entitlements under the lease.
- (2) A variation of a mining lease pursuant to subsection (1) shall take effect from the time indicated in that variation.
 - (3) Notice of every variation of a mining lease pursuant to subsection (1) shall be given in writing by the Minister to the holder of the mining lease and to all persons holding an interest recorded as provided in this part in the mining lease.
 - (4) The notice to the holder shall direct the holder to produce any instrument of lease for endorsement.
 - (5) The chief executive upon receipt of the instrument of lease shall make all endorsements thereon to give effect to the variation.
 - (6) The Minister shall cause suitable recordings to be made in the register that the mining lease has been varied.
 - (7) Where, prior to receiving a notice of variation pursuant to subsection (3) the holder of a mining lease has placed any improvements, machinery, plant or equipment on land which, by reason of the variation, has ceased to be part of the area of the mining lease, the holder may within 20 business days after receipt by the holder of that notice, apply to the Minister for permission to enter upon that land and to remove the improvements, machinery, plant or equipment or any part thereof.
 - (8) Upon application duly made to the Minister under subsection (7), the Minister shall grant permission to the applicant in respect thereof for such period and upon such conditions as the Minister thinks fit.

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- (9) The applicant, together with the applicant's workers and persons delivering goods or substances or providing services ancillary to that purpose and vehicles and equipment, may enter upon land and remove improvements, machinery, plant or equipment or any part thereof in accordance with the permission granted pursuant to subsection (8).
- (10) Where a mining lease has been varied pursuant to subsection (1), the holder thereof shall be deemed to hold indemnified the Crown, the Minister and all officers, servants and agents of the Crown and the Minister against all claims arising out of anything done pursuant to this Act or done on or in land which, by reason of that variation, has ceased to be part of the area of the mining lease.
- (11) Where the boundaries and size of the area of a mining lease have been varied pursuant to subsection (1)(a)—
- (a) the condition under section 276(1)(c) that applied before the variation shall continue to apply after that variation in respect of activities carried on before that variation; and
 - (b) the conditions (other than the condition referred to in paragraph (a)) that applied before the variation shall cease to apply after that variation in respect of activities carried on after that variation;
- in respect of the land that has ceased to be part of the area of the mining lease.
- (12) Where the boundaries and size of the area of a mining lease have been varied pursuant to subsection (1)(a), the conditions of the lease shall from that variation also apply in respect of land that becomes part of the area of the mining lease.
- (13) Where an exchange of parts of land has been effected pursuant to subsection (1)(b), in respect of each mining lease—
- (a) the conditions that applied before the exchange shall continue to apply in respect of the area of the mining lease after the exchange; and

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- (b) the conditions that applied before the exchange shall cease to apply in respect of the part of land that has ceased to be part of the area of the mining lease.
- (14) Notwithstanding subsections (11) and (13), the provisions of sections 277 and 308 shall continue to apply after a variation of a mining lease pursuant to subsection (1) in respect of any acts done or omitted to be done before that variation.
- (15) The Minister may direct and authorise the holder of a mining lease to enter upon land that has ceased to be part of the area of the mining lease to comply with any condition referred to in subsection (11) or (13).
- (16) This section shall not be construed to abrogate or prejudice any right had by the Crown or a person, authority or body in respect of land which by reason of a variation pursuant to subsection (1) has ceased to be part of the area of a mining lease, from proceeding in any court of competent jurisdiction or independently of this Act to recover damages or to obtain any other remedy in respect of damage or injury suffered or loss incurred by reason of a person acting or purporting to act under the authority of that mining lease but any moneys paid under section 277 in respect of damage the subject of the proceedings shall be taken into account by that court in assessing the loss or damage.
- (17) The person who was the holder of a mining lease that is varied pursuant to this section shall pay the prescribed royalty in respect of all mineral mined by the person or on the person's behalf from land that ceases to be a part of the area of the mining lease as if it had been mined under the authority of that mining lease.

296 Correction of instrument of lease

- (1) If, at any time, the chief executive is of the opinion that an instrument of lease of a mining lease should be corrected by reason that the instrument is defective owing to error in its preparation, the chief executive may correct the instrument and shall endorse every copy thereof accordingly.

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- (2) When an instrument of lease is corrected under this section it shall be construed and operate as if it had been originally issued as corrected.

297 Replacement instrument of lease

- (1) Where the Minister is satisfied that an instrument of lease of a mining lease should be cancelled and a replacement instrument of lease issued in its place—
- (a) the Minister must cancel the instrument of lease; and
 - (b) the chief executive must issue a replacement instrument of lease.
- (2) A replacement instrument of lease of a mining lease issued under this section—
- (a) shall be the instrument of lease issued in respect of the mining lease concerned in place of the instrument of lease previously issued in respect thereof and cancelled under this section which lastmentioned instrument shall, upon the issue of the fresh instrument, cease to be of any force or effect; and
 - (b) may bear a form of endorsement which briefly traces the devolution of the title from the original holder of the mining lease to the person appearing as holder thereof at the time the replacement instrument of lease is issued; and
 - (c) shall bear endorsement of all apparently subsisting mortgages affecting the mining lease concerned and endorsed on the instrument of lease so cancelled; and
 - (d) shall be delivered to the person who appears to the Minister to be lawfully entitled to possession thereof.
- (3) The Minister shall cause the instrument of lease so cancelled to be suitably endorsed and a suitable recording to be made in the register that a replacement instrument of lease has been issued in its place.

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- (4) The cancelled instrument of lease shall be retained by the chief executive.

298 Mining other minerals or use for other purposes

- (1) The holder of a mining lease for the mining of minerals may lodge an application in writing with the chief executive for the Minister's approval to mine specified minerals (other than coal seam gas), being minerals not specified in the mining lease, in respect of the whole or that part of the land specified in the mining lease that is not currently the subject of a mining lease or mineral development licence (or an application for a mining lease or mineral development licence) in respect of those specified minerals.

Note—

See also chapter 8, part 8, division 1.

- (2) The application shall be accompanied by the prescribed application fee.
- (3) The application and any other application for the grant of a mining lease for the same minerals must be considered and decided according to the day on which they are lodged.
- (3A) If the applications were lodged on the same day—
- (a) they take the priority the Minister decides, after considering the relative merits of each application; and
- (b) the chief executive must give each applicant a written notice stating there is competition for priority between the applicant's application and another application, or other applications, lodged on the same day as the day on which the applicant's application was lodged.
- (4) The holder of a mining lease granted for purposes (other than mining of minerals) may lodge an application in writing with the chief executive for the Minister's approval for the addition of such purposes not specified in the mining lease (being not those of mining for minerals), which the Minister accepts are

appropriate for the mining lease and are not inconsistent with this Act.

- (5) The application shall be accompanied by the prescribed fee.
- (6) The holder of a mining lease granted for the mining of minerals may apply in writing to the chief executive for the Minister's approval for the addition of such purposes not specified in the mining lease as are not inconsistent with this Act.
- (7) The application shall be accompanied by the prescribed fee.
- (8) The Minister may approve or reject an application under this section.
- (9) Without limiting subsection (8), the Minister may reject the application if the Minister considers the addition is not in the public interest.
- (10) Upon the Minister approving an application under this section and compliance by the applicant with any requirements imposed by the Minister, the relevant mining lease shall be deemed to include the specified minerals or, as the case may be, the additional purposes.

Note—

See, however, the Environmental Protection Act, section 426 (Environmental authority required for particular environmentally relevant activities) and chapter 5, part 12, division 1 (Plan of operations for environmental authority relating to mining lease or petroleum lease).

- (11) Without limiting subsection (12)(a), a condition may be imposed on the approval of the Minister if the Minister considers the condition is in the public interest.
- (12) An approval of the Minister under this section may be subject to—
 - (a) conditions; and
 - (b) the requirement to deposit such security under section 277 as the Minister determines.

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- (13) Particulars of an approval under this section shall be recorded in the register and endorsed on the relevant instrument of mining lease.

299 Consolidation of mining leases

- (1) The holder of mining leases for the mining of minerals in respect of contiguous areas may lodge an application in writing with the chief executive for the grant of a mining lease consolidating those mining leases.
- (2) The application shall be accompanied by the prescribed fee.
- (3) If the chief executive is not satisfied the areas are adjoining, the holder may apply to the Land Court for an order declaring the areas to be adjoining areas for this section.
- (4) The Minister may cancel the mining leases referred to in an application lodged pursuant to subsection (1) and grant the mining lease applied for, subject to such conditions as may be imposed by or under this Act.
- (5) The relevant instruments of lease shall be cancelled or, as the case may be, issued to evidence the cancellation and grant of the mining leases.
- (6) If, within the proposed area of the consolidated mining lease, there is an area not included in 1 of the leases to be consolidated, the Minister may include the area in the consolidated mining lease.
- (7) A consolidated mining lease may be granted only if the Minister is satisfied arrangements for compensation, the deposit of security and the proposed conditions of the mining lease are adequate.
- (8) Sections 232, 238, 240, 241, 243, 245, 251 to 253, 260, 265, 266, 268, 269, 271 to 272, 274 and 275 and such other provisions as the Minister approves do not apply in respect of an application for and grant of a mining lease under this section.

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- (9) The provisions of section 312(3) do not apply in respect of a mining lease terminated for the purposes of the grant of a mining lease under this section.
 - (10) Notwithstanding the provisions of section 277(11), the security that pursuant to that section would have been refunded to the holder of the cancelled mining leases or as the holder directs may, at the request of the applicant, be retained by the Minister towards security required under section 277(1) to be deposited by the holder of the new mining lease issued under subsection (4).

307 Abandonment of application for the grant of a mining lease

- (1) The applicant for a mining lease may, at any time before the grant of the mining lease, by notice in writing to the chief executive abandon the application in respect of the whole or part of the land applied for.
- (2) The abandonment shall take effect on the day next following its receipt by the chief executive.
- (3) The applicant for the grant of a mining lease who gives a notice referred to in subsection (1) to the chief executive shall forthwith serve a copy of that notice on—
 - (a) if the application has been referred to the Land Court under section 265—the Land Court; and
 - (b) all other persons on whom the applicant was required under this Act to give a copy of the certificate of public notice for the mining lease.
- (4) Where an application for the grant of a mining lease is abandoned in respect of part only of the land applied for, the application shall be amended to show the area in respect of which the mining lease application is to remain in force in the same manner as is required for an original application and the amended application shall proceed in respect of that area in accordance with this part.

308 Contravention by holder of mining lease

- (1) If the Minister considers that the holder of a mining lease—
 - (a) has carried out activities that are not bona fide for the purposes for which the mining lease was granted; or
 - (b) has failed to pay the royalty or any other moneys payable thereunder (other than rental) or in respect thereof by the due date for payment; or
 - (c) has failed to comply with any condition that is to be observed and performed by the holder under or in respect of the mining lease, other than a condition with respect to matters referred to in subsection (2)(a) or (b);the Minister may—
 - (d) cancel the mining lease; or
 - (e) impose on the holder a penalty not exceeding 1500 penalty units.
- (2) If the Minister considers that the holder of a mining lease—
 - (a) in any rental year has failed after notice given to the holder in accordance with section 290(5) to pay before 1 December of that rental year the amount of the rental payable under that section by that date in respect of that mining lease; or
 - (b) has failed to pay a penalty imposed on the holder pursuant to subsection (1)(e) within the time allowed for the payment by the Minister;the Minister may cancel the mining lease.
- (3) The Minister shall not act pursuant to subsection (1) until the Minister has, by notice in writing in the approved form served on the holder of the mining lease, called upon the holder to show cause within the time specified therein why the mining lease should not be cancelled or a penalty imposed and served a copy of the notice on every person who currently holds a recorded interest in respect of the mining lease at the person's

address last recorded by the chief executive and such cause has not been shown to the satisfaction of the Minister.

- (4) When the Minister pursuant to this section cancels a mining lease the Minister shall notify the holder and every person who holds a recorded interest in respect of the mining lease accordingly stating the reason for the cancellation.
- (5) The cancellation of a mining lease under this section shall take effect on the day next following the Minister's determination to cancel the mining lease.

309 Surrender of mining lease

- (1) The holder of a mining lease may apply to surrender the mining lease or any part of the area of the mining lease at any time before the expiration of its term.
- (2) The holder of a mining lease who desires to surrender a mining lease or any part of the area of the mining lease shall lodge with the chief executive—
 - (a) a notice of surrender in the approved form; and
 - (b) for the surrender of the whole of the area of the mining lease—
 - (i) a properly completed royalty return, unless it has already been lodged under section 320(4); and
 - (ii) either—
 - (A) the royalty payable to the State under section 320(3)(a), unless it has already been paid; or
 - (B) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b); and
 - (c) the fee prescribed under a regulation.
- (4) The Minister may, by written notice, give the mining lease holder directions about carrying out improvement restoration for the mining lease.

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- (5) A purported surrender of a mining lease or of any part of the area of a mining lease shall not be effective unless—
 - (a) the holder has complied with this section; and
 - (b) the Minister consents to the surrender.
- (6) However, the Minister may give the consent only if the Minister is satisfied—
 - (a) the holder has complied with the condition to carry out improvement restoration for the mining lease; and
 - (b) the relevant environmental authority has been cancelled or surrendered under the Environmental Protection Act.
- (7) If a mining lease is surrendered for only part of the area of the lease—
 - (a) the mining lease continues in force for the part of the area not surrendered; and
 - (b) details of the surrender must be—
 - (i) recorded in the register; and
 - (ii) if an instrument of lease has been issued—endorsed on the instrument of lease by the chief executive.
- (8) Upon a surrender of a mining lease, all adjustments between the holder and the Crown in respect of the payment of rental, fees and other moneys shall be at the discretion of the Minister.
- (9) Where any moneys are specified pursuant to subsection (8) as a debt due to the Crown, the Minister may direct that the security deposited in accordance with section 277 may be utilised for payment thereof.
- (10) Nothing in this section shall prevent the Crown from recovering moneys from a person specified in subsection (8) as liable to pay and unpaid (whether directly or through utilisation of the security deposit) by action in the Land Court.

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- (11) In a proceeding for the recovery of an amount owing to the State under this Act, a certificate signed by the chief executive stating the amount of the debt is evidence of the amount of the debt.
 - (12) Where, at the time when the holder of a mining lease purports to surrender the mining lease or a part of the area of the mining lease, the holder applies for a new mining claim or mining lease for the whole or part of the area of the current mining lease, the purported surrender shall take effect immediately prior to the grant of the new mining claim or mining lease.
 - (13) Nothing in section 232 shall prevent a holder of a mining lease, at the time the holder surrenders the mining lease or part of the area of the mining lease, from applying for the grant of a mining lease over the whole or part of the area of the surrendered mining lease and the grant of the mining lease applied for.
 - (14) A surrender of a mining lease (other than a surrender referred to in subsection (12)) shall take effect on the day next following its acceptance by the Minister.

310 Minerals taken become property of holder of mining lease

All minerals lawfully mined under the authority of a mining lease cease to be the property of the Crown or person who had property therein and become the property of the holder of the mining lease subject however to the rights to royalty payments under this Act of the Crown or any other person.

311 Royalties in respect of minerals taken under mining lease

The holder of a mining lease shall pay in respect of all minerals mined or purported to be mined under the authority of the mining lease, the royalty prescribed pursuant to chapter 11.

312 Effect of termination of mining lease

- (1) This section applies on the termination of a mining lease.
- (2) However, this section does not apply to a mining lease if the termination is for granting a mining claim or a new mining lease over the area of the terminated lease to the holder of the terminated lease.
- (3) The person who was the holder of the terminated mining lease immediately before its termination must immediately remove each post or other thing used to mark the land under this Act (other than a survey mark or anything else required under another Act not to be removed).
- (4) On the termination of the mining lease, the ownership of all mineral and property on the land in the area of the terminated lease divests from the owner and vests in the State.
- (5) However, subsection (4) applies to property only if it was brought on to the land under the terminated mining lease.

313 Application for approval to remove mineral and property

- (1) This section applies to mineral and property that vests in the State on the termination of a mining lease.
- (2) Anyone who had an interest in the mineral or property immediately before its ownership vests in the State may apply in writing to the chief executive for the Minister's permission to remove the mineral or property from the land.
- (3) The application—
 - (a) must be made within 20 business days (or a longer period, of not more than 3 months, allowed by the Minister) after the mineral or property vests in the State; and
 - (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease is made over for the land.

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- (4) The Minister may approve or refuse to approve the application.
 - (5) However, the Minister must approve the application if the Minister is satisfied—
 - (a) the person was entitled to the mineral or property immediately before it vested in the State; and
 - (b) there is enough security to meet the costs for which it was deposited.

Note—

For the provision of security, see section 277.

- (6) The approval may be given on conditions stated in it.
- (7) If the application is approved, the person named in the approval may enter the land and remove the mineral or property (other than covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.
- (8) Anything removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mining lease.
- (9) However, mineral divests from the State and forms part of the land if it is not removed before the later of—
 - (a) the end of the time stated in an approval under this section; or
 - (b) 3 months after the mining lease's termination.

314 Property remaining on former mining lease may be sold

- (1) This section applies if the chief executive has not received an application, or has received an application that has not been granted, for approval to remove property from the site of a terminated mining lease within 3 months after the lease's termination.

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- (2) The Minister may direct the chief executive to—
 - (a) sell the property by public auction or in another stated way; or
 - (b) if the property has no commercial value—dispose of or destroy it.
- (3) Proceeds of a sale are to be applied in the following order towards—
 - (a) the reasonable expenses incurred in the sale;
 - (b) the cost of rectifying actual damage for which an amount of security deposited for the terminated mining lease could have been used, but was not used, or was inadequate;
 - (c) any costs or expenses mentioned in the Environmental Protection Act, section 298 for a relevant environmental authority;
 - (d) amounts owing to the State under this Act by the former holder;
 - (e) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority;
 - (f) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the lease;
 - (g) amounts owing to a mortgagee under a mortgage registered under this Act over the lease.
- (4) Any balance must be paid to the former holder.
- (5) If the chief executive can not decide the identity of, or locate, a person entitled to the proceeds or part of the proceeds, the chief executive may pay the amount to the public trustee as unclaimed moneys.
- (5A) A secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (3)(a) to (e).

(6) Compensation is not payable for a sale, disposal or destruction under this section.

(7) In this section—

PPS Act means the *Personal Property Securities Act 2009* (Cwlth).

secured party has the meaning given by the PPS Act, section 10.

security interest has the meaning given by the PPS Act, section 12.

316 Mining lease for transportation through land

(1) This section applies if a person who holds, or is an applicant for, a mining lease for a particular area—

(a) wants a mining lease over land that is not in the area of the person's lease for the transportation of something through, over or under the land by a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar method of transport, or road; and

(b) does not hold a prospecting permit, exploration permit or mineral development licence for the land.

(2) The Minister may grant to a person a mining lease for the transportation of the thing through, over or under the land covered by the application for the lease if—

(a) the Minister is satisfied the proposed lease is for a purpose associated with or arising from activities performed, or to be performed, under the person's mining lease; or

(b) before the person applied for the lease, the Governor in Council, under a regulation, declared the transportation of the thing through, over or under land that is not in the area of a mining lease by a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar method of transport to be an activity associated with or arising from mining.

[s 317]

- (3) An application for a mining lease under this section must be given to the chief executive.
- (4) If land included in the application is in the area of an exploration permit or mineral development licence, the application does not have to be accompanied by the consent of the permit or licence holder, but the applicant must give written notice of the application to the permit or licence holder within 5 business days after lodging the application.
- (5) The chief executive may either completely or partly dispense with a requirement under this part for marking out the land included in the application.

317 Variation of access to mining lease area

- (1) The holder of a mining lease may apply to the chief executive in the approved form for a variation of the land used or proposed to be used as access in relation to the area of the mining lease.
- (2) An application for a variation of the land used or to be used as access under this section shall be accompanied by—
 - (a) such particulars as are, by sections 245 and 246, required to accompany an application for the grant of a mining lease in so far as those particulars relate to the land used or proposed to be used as access in relation to surface area of the land the subject of the mining lease; and
 - (b) the prescribed application fee.
- (3) Where, in respect of an application for a variation of the land used or proposed to be used as access under this section, the chief executive is not satisfied that the owner of the land proposed to be used as access consents to the use, the chief executive must refer the issue of consent to the Land Court for its consideration.

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- (4) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the chief executive;
 - (b) the applicant;
 - (c) the land owner.
- (4A) The date must be at least 20 business days after the day the Land Court fixes the hearing date.
- (5) The Land Court shall hear and determine the matter by determining—
- (a) that consent to the proposed variation should or should not be given; and
 - (b) if consent should be given—the amount (if any) of compensation payable by the holder in respect of the proposed use of that land as access.
- (5A) Without limiting subsection (5), the Land Court may determine that consent to the proposed variation should not be given if the court considers the variation is not in the public interest.
- (6) Subject to subsection (7), the provisions of section 281(3) to (7) apply in respect of a matter referred to the Land Court under this section as if the matter were an application referred to the Land Court under section 281(1).
- (7) In determining compensation payable under subsection (5), allowance shall be made for compensation agreed or determined to be payable in respect of the current land used as access in respect of the mining lease.
- (8) The determination of the Land Court of a matter under this section shall be final and conclusive.
- (9) In respect of an application made under this section, upon—
- (a) where the proposed access is over land of which there is an owner—

[s 318]

- (i) lodgement with the chief executive of the consent in writing of the owner or owners of that land; or
 - (ii) where the Land Court determines that consent should be granted, whether with or without compensation, compliance with any terms and conditions imposed by the Land Court to be complied with before consent is given; and
 - (b) where the proposed access is over land of which there is no owner, the chief executive determining that the variation is, in the circumstances, appropriate;
the chief executive shall record the variation of that access in the register and advise the holder and the owner accordingly.
- (9A) Without limiting subsection (9)(a)(ii), the Land Court may impose terms and conditions to be complied with before consent is given if the court considers the condition is in the public interest.
- (10) An agreement made between a holder and an owner of land regarding compensation payable in respect of the proposed use of the land as access in respect of a mining lease as a result of a variation under this section shall not be effective unless and until—
- (a) it is in writing signed by or on behalf of the parties; and
 - (b) it is filed.
- (11) If an agreement referred to in subsection (10) is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.

318 Improvement restoration for mining lease

- (1) This section applies on the termination of a mining lease, other than—
 - (a) by surrender under section 309; or
 - (b) for the granting of a new mining lease over the area of the terminated mining lease.

- (2) The Minister may, if not satisfied the holder of the terminated mining lease has not carried out improvement restoration for the mining lease, give the holder reasonable written directions about the restoration.
- (3) The holder must comply with the directions.
Maximum penalty—2000 penalty units.
- (4) The holder and the holder's employees or agents may, to the extent reasonable and necessary to comply with the directions—
 - (a) enter land stated in the notice; and
 - (b) bring on to the land vehicles, vessels, machinery and equipment.

Part 2 Mining lease for Aurukun project

318AAA Application of pts 1 and 2

- (1) This part applies—
 - (a) only for the granting of, and in relation to, a mining lease for an Aurukun project; and
 - (b) only if the holder of the lease is a party to the relevant Aurukun agreement; and
 - (c) if the agreement has not been terminated.
- (2) Part 1, except to the extent mentioned in subsection (3), also applies for the granting of, and in relation to, a mining lease for an Aurukun project.
- (3) Sections 232, 233, 239, 245, 248 to 260, 265, 266, 268, 269, 271 to 273, 275, 276, 278A, 280, 283, 284, 285 and 286A do not apply for the granting of, and in relation to, a mining lease for an Aurukun project.

[s 318AAB]

- (4) Also, a reference in a provision of part 1 to a provision that has been disapplied under subsection (3) is to be disregarded.
- (5) To remove any doubt, it is declared that this part applies to the following—
 - (a) a mining lease under section 234 for a purpose mentioned in section 234(1)(a) or (b);
 - (b) a mining lease under section 316 for the transportation of a thing.

318AAB Only eligible person can apply for and hold mining lease (233)

- (1) A mining lease under this part can only be applied for and held by an eligible person.
- (2) The application and grant of a lease may be made even if the land for an Aurukun project is part of a restricted area.

Note—

The numbers bracketed in the headings to this and other sections of this part are references to corresponding sections in part 1.

- (3) Despite subsection (1), a mining lease granted under this part may be cancelled under section 318AAL even though the holder has ceased to be an eligible person.

318AAC Alternative way of marking out land proposed to be subject of mining lease (241)

- (1) In addition to section 241 the chief executive may approve an alternative method for marking out land proposed to be the subject of a mining lease.
- (2) If an alternative method is approved, sections 242 and 244 do not apply.

318AAD Application for grant of mining lease (245)

An application for the grant of a mining lease must—

-
- (a) be in the approved form; and
 - (b) identify, in the way prescribed under a regulation, the boundaries of the land applied for; and
 - (c) describe and identify, in the way prescribed under a regulation, any land proposed to be used as access from a point outside the boundary of the land applied for acceptable to the chief executive to land over which the lease is sought; and
 - (d) be accompanied by a sketch, map or other graphic representation acceptable to the chief executive setting out the boundaries of any land referred to in paragraphs (b) and (c); and
 - (e) nominate the term of the lease sought and give reasons for the term; and
 - (f) be accompanied by—
 - (i) a statement, acceptable to the chief executive outlining the mining program proposed, outlining its method of operation, and providing an indication of when operations are expected to start or, if a mining program is not proposed, outlining the use proposed for the land and providing an indication of when the proposed use is to start; and
 - (ii) a statement, acceptable to the chief executive of proposals for infrastructure requirements necessary to enable the mining program to proceed, or additional activities to be carried on to work out the infrastructure requirements; and
 - (iii) the application fee prescribed under a regulation.

318AAE Additional matters for application (252)

- (1) The chief executive must endorse on the application—
 - (a) the number of the proposed mining lease; and
 - (b) the date and time the application was lodged.

[s 318AAF]

- (2) In addition to section 246, the chief executive may approve an alternative method for describing a mining lease in the application.

318AAF Mining lease must include all surface of land (273)

A mining lease over land must not be granted unless it includes the whole of the surface of the land.

318AAG Holder of a mining lease to mark boundary posts (274)

In addition to section 274, the chief executive may approve an alternative method for marking boundary posts.

318AAH General conditions of mining lease (276)

- (1) Each mining lease is subject to—
- (a) a condition that the holder must use the area of the lease for the purpose for which the lease was granted and in accordance with this Act and the conditions of the lease and for no other purpose; and
 - (b) a condition that the holder must carry out improvement restoration for the lease; and
 - (c) a condition that the holder, before the end of the lease for whatever cause, must remove any building or structure purported to be erected under the authority of the lease and all mining equipment and plant, on or in the area of the lease unless otherwise approved by the Minister; and
 - (d) a condition that without the prior approval of the Minister the holder must not obstruct or interfere with any right of access had by any person in relation to the area of the lease; and
 - (e) a condition that the holder is not to transfer, mortgage or sublease the lease, or any part of it, unless the Minister

- is satisfied that any approval or consent required under the relevant Aurukun agreement has been given; and
- (f) a condition that the holder give, in the way prescribed under a regulation, all reports, returns, documents and statements prescribed under a regulation; and
 - (g) a condition that the holder give materials obtained under the holder's mining operations to the Minister at the times, in the way and in quantities the Minister reasonably requires by written notice to the holder; and
 - (h) if the lease is over land that is a reserve—a condition that the holder comply with the terms and conditions on which the consent of the owner or the Governor in Council to the grant of the lease was given; and
 - (i) a condition that the holder maintain, during the term of the lease, the marking out of the area of the lease, including any survey pegs, but that boundary posts or cairns need not be maintained after the area has been surveyed; and
 - (j) a condition that the holder make all payments of compensation and comply with all terms of any agreement or determination relating to compensation at the time or times agreed or determined under section 279, 281 or 282; and
 - (k) a condition that the holder—
 - (i) pay the rental prescribed under a regulation; and
 - (ii) pay the royalty prescribed under a regulation; and
 - (iii) pay all local government rates and charges lawfully chargeable against the holder for the area of the lease; and
 - (iv) deposit, as required by the Minister, any security from time to time under this Act; and
 - (l) a condition that the holder comply with this Act and other mining legislation; and

[s 318AAI]

- (m) any other conditions stated in the relevant Aurukun agreement to be conditions of the lease; and
 - (n) any other conditions decided by the Minister.
- (2) Without limiting subsection (1), the Minister may decide a condition of the mining lease if the Minister considers the condition is in the public interest.
 - (3) Each mining lease may be subject to a condition that mining operations under the lease commence within a stated period after its grant.
 - (4) Conditions requiring compliance with stated codes or industry agreements may be imposed for each mining lease.
 - (5) Despite subsections (1) to (4), a condition must not be imposed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the lease.

318AAI Initial term of mining lease (284)

- (1) The initial term of a mining lease is for the period approved by the Minister, starting on the first day of the month next following the day on which the lease is granted.
- (2) From the grant of the lease to the start of the initial term the holder has all the entitlements, powers, duties and functions that the holder has during the term of the lease.
- (3) Despite subsection (2), no rent is payable for the period before the initial term starts.

318AAJ Renewal of lease (286A)

- (1) This section applies—
 - (a) despite section 318AAA; and
 - (b) if the relevant Aurukun agreement has not been terminated before the application for the renewal of a mining lease is made.

- (2) Section 286A, other than subsection (1)(h), applies to the renewal.

318AAK Requirements for transferring, mortgaging or subleasing mining leases

- (1) Subsection (2) applies despite chapter 7, part 1, divisions 2 and 3.
- (2) A mining lease, or an interest in a mining lease, can not be transferred, mortgaged or subleased unless the Minister is satisfied that any approval or consent required under the relevant Aurukun agreement for the transfer, mortgage or sublease has been given.

318AAL Contravention by holder of mining lease (308)

In addition to section 308, if the relevant Aurukun agreement has been terminated, the Minister may cancel the lease.

318AAM Limitation on surrender of mining lease (309)

- (1) This section applies if the holder of a mining lease wishes to surrender the lease.
- (2) Despite section 318AAA, section 309 does not apply unless the Minister is satisfied the holder has fully discharged its obligations under the relevant Aurukun agreement.

Chapter 7 Common provisions for mining tenements

Part 1 Dealings and transfers affecting applications for mining leases

Division 1 Preliminary

318AAN Application of pt 1

- (1) This part applies to the following mining tenements—
 - (a) a mining claim;
 - (b) an exploration permit;
 - (c) a mineral development licence;
 - (d) a mining lease.
- (2) This part also applies to the following transfers (each an *application transfer*)—
 - (a) a transfer of an application for a mining lease;
 - (b) a transfer of an interest in an application for a mining lease.

318AAO Definitions for pt 1

In this part—

assessable transfer see section 318AAR(2).

non-assessable transfer see section 318AAR(1).

318AAP What is a *dealing* with a mining tenement

- (1) Each of the following is a *dealing* with a mining tenement—
 - (a) a transfer of the mining tenement or of a share in the mining tenement;
 - (b) a mortgage over the mining tenement or over a share in the mining tenement;
 - (c) a release, transfer or surrender of a mortgage mentioned in paragraph (b);
 - (d) a change to the mining tenement holder's name even if the holder continues to be the same person after the change;
 - (e) if the mining tenement is a mining lease—
 - (i) a sublease of the mining lease; or
 - (ii) a transfer of a sublease of the mining lease or of a share in a sublease of the mining lease.
- (2) To remove any doubt, it is declared that any transaction or commercial agreement not mentioned in subsection (1) is not a dealing with a mining tenement.

318AAQ Prohibited dealings

A dealing with a mining tenement, other than a dealing mentioned in section 318AAP(1)(e), that transfers a divided part of the area of the mining tenement is prohibited.

Examples of a divided part of the area of a mining tenement—

- a particular part of the surface of the area
- a particular strata beneath the surface of the area

318AAR Types of transfers

- (1) The following transfers (each a *non-assessable transfer*) do not require assessment before being registered—

[s 318AAS]

- (a) a transfer of a mining tenement or of a share in a mining tenement if—
 - (i) the transferee is an entity having the same Australian Business Number as the entity comprising all or part of the transferor; or
 - (ii) part of one holder's share in the mining tenement will be transferred to another holder of the mining tenement;
 - (b) a transmission by death of a mining tenement or of a share in a mining tenement;
 - (c) a transfer of a mining tenement or of a share in a mining tenement by operation of law;
 - (d) a transfer of a mortgage over a mining tenement or over a share in a mining tenement;
 - (e) a transfer of a sublease of a mining lease or of a share in a sublease of a mining lease.
- (2) The following transfers (each an *assessable transfer*) must be approved by the Minister under division 3 before they can be registered—
- (a) a transfer of a mining tenement or of a share in a mining tenement not mentioned in subsection (1);
 - (b) an application transfer.

Division 2 Registration generally

318AAS Registration required for all dealings and application transfers

- (1) A dealing with a mining tenement or an application transfer has no effect until it is registered.
- (2) A registered dealing takes effect on—
 - (a) for a dealing that is an assessable transfer—the day the transfer was approved under division 3; or

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- (b) for any other dealing—the day notice of the dealing was given to the chief executive under section 318AAT.
- (3) A registered application transfer takes effect on the day the transfer was approved under division 3.

318AAT Obtaining registration

- (1) Registration of a dealing with a mining tenement, other than an assessable transfer, may be sought by giving the chief executive a notice of the dealing in the approved form.
- (2) However, a dealing with a mining tenement prohibited under section 318AAQ can not be registered and is of no effect.
- (3) The approved form must be accompanied by the fee prescribed under a regulation.
- (4) Registration of an assessable transfer must be carried out by the chief executive.

Note—

An application transfer is an assessable transfer and must be approved by the Minister under division 3 before registration of the transfer.

318AAU Effect of approval and registration

The registration of a dealing with a mining tenement or application transfer, or an approval of an assessable transfer under division 3, allows the dealing or transfer to have effect according to its terms but does not of itself give the dealing or transfer any more effect or validity than it would otherwise have.

Division 3 Approval of assessable transfers

318AAV Indicative approval

- (1) The holder of a mining tenement, an applicant for a mining lease or the holder of an interest in an application for a mining

[s 318AAW]

lease may, before applying for approval of an assessable transfer for the mining tenement, application or interest, apply—

- (a) for an indication whether the transfer is likely to be approved (an *indicative approval*); and
 - (b) if conditions are likely to be imposed on the giving of the approval—for an indication what the conditions are likely to be.
- (2) The application must be—
- (a) made to the Minister; and
 - (b) in the approved form; and
 - (c) accompanied by—
 - (i) the information the Minister requires to make a decision; and
 - (ii) the fee prescribed under a regulation.
- (3) In deciding whether or not to give the indicative approval, the Minister must consider the matters mentioned in section 318AAX(2) as if the request were an application for approval of an assessable transfer.
- (4) The Minister must decide whether or not to give the indicative approval and give the applicant notice of the decision.

318AAW Applying for approval of assessable transfer

- (1) The holder of a mining tenement may apply for approval of an assessable transfer for the mining tenement.
- (2) An application under subsection (1) must be—
 - (a) made to the Minister; and
 - (b) in the approved form; and
 - (c) accompanied by—
 - (i) a written consent to the transfer by the proposed transferee; and

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- (ii) if the mining tenement or a share in the mining tenement is subject to a mortgage—a written consent to the transfer by the mortgagee; and
 - (iii) for a transfer of a share in a mining tenement—a written consent to the transfer by each person, other than the transferor, who holds a share in the mining tenement; and
 - (iv) the fee prescribed under a regulation.
- (3) An applicant for a mining lease or the holder of an interest in an application for a mining lease may apply for approval of an assessable transfer for the application or interest.
- (4) An application under subsection (3) must be made to the Minister in the approved form and be accompanied by—
- (a) a written consent to the transfer by the proposed transferee; and
 - (b) a written consent to the transfer by—
 - (i) for the transfer of an application—each person, other than the transferor, who is an applicant for the application; or
 - (ii) for the transfer of an interest in an application—each person, other than the transferor, who is the holder of the interest; and
 - (c) the fee prescribed under a regulation.
- (5) However, an application under subsection (1) or (3) can not be made under this section if the proposed transferee is not an eligible person.

318AAX Deciding application

- (1) The Minister must decide whether or not to give the approval of the assessable transfer.
- (2) In deciding whether or not to give the approval, the Minister must consider—

[s 318AAX]

- (a) the application for approval and any additional information accompanying the application; and
 - (b) for an assessable transfer other than an application relating to a mining claim—whether the transferee has the human, technical and financial resources to comply with—
 - (i) if the application relates to an exploration permit—the conditions of the exploration permit under section 141; or
 - (ii) if the application relates to a mineral development licence—the conditions of the mineral development licence under section 194; or
 - (iii) if the application relates to a mining lease—the conditions of the mining lease under section 276; and
 - (c) the public interest.
- (3) However, subsection (2) does not apply if, under subsection (6) or (7), the approval is taken to have been given.
- (4) The approval may be given only if—
- (a) the proposed transferee is—
 - (i) an eligible person; and
 - (ii) for a mining tenement for other than small scale mining activities—a registered suitable operator under the Environmental Protection Act; and
 - (b) for a transfer of a mining tenement or of a share in a mining tenement—no royalty payable under this Act by the holder of the mining tenement remains unpaid.
- (5) Also, the Minister may refuse to give the approval if the Minister is not satisfied the transferor has substantially complied with the conditions of the mining tenement.

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- (6) The approval is taken to have been given if—
- (a) under section 318AAV, an indicative approval has been given for the proposed dealing; and
 - (b) subsection (4) does not prevent the giving of the approval; and
 - (c) within 3 months after the giving of the indicative approval—
 - (i) an application for approval of the assessable transfer is made; and
 - (ii) if, under section 318AAV, an indication of likely conditions was given—the conditions are complied with.
- (7) The approval is also taken to have been given if—
- (a) subsection (6)(a) and (b) is satisfied; and
 - (b) within 10 business days before the expiration of 3 months after the giving of the indicative approval, the applicant gives the chief executive—
 - (i) notice in the approved form that a proposed transferee has given a notice under the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth) about a proposal that relates to the assessable transfer; and
 - (ii) evidence that the proposed transferee has given the notice under that Act; and
 - (iii) a statement from the proposed transferee that the proposed transferee has not received notice about an order or decision made under that Act about the proposal; and
 - (c) within 6 months after the giving of the indicative approval, subsection (6)(c)(i) and (ii) is satisfied.

[s 318AAY]

- (8) Despite subsections (6) and (7), the approval of the assessable transfer is taken not to have been given if—
- (a) the request for indicative approval contained incorrect material information or omitted material information; and
 - (b) had the Minister been aware of the discrepancy, the Minister would not have given the indicative approval.

318AAY Security may be required

- (1) This section applies to an assessable transfer other than an application transfer.
- (2) The Minister may, as a condition of deciding to give the approval, require the proposed transferee to give under the following section (the *relevant section*), security for the mining tenement the subject of the transfer as if the proposed transferee were an applicant for the mining tenement—
 - (a) for an approval relating to a mining claim—section 83;
 - (b) for an approval relating to an exploration permit—section 144;
 - (c) for an approval relating to a mineral development licence—section 190;
 - (d) for an approval relating to a mining lease—section 277.
- (3) If the proposed transferee does not comply with the requirement, the application may be refused.
- (4) When the transfer of the mining tenement is complete, the relevant section applies to the transferee of the mining tenement as holder.

318AAZ Written notice about decision

- (1) If the Minister decides to give the approval, the Minister must give the applicant for the approval written notice of the decision.

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- (2) If the Minister decides not to give the approval, the Minister must give the applicant for the approval written notice of the decision stating the following—
- (a) the decision, and the reasons for it;
 - (b) the rights of appeal under this Act;
 - (c) the period in which any appeal under this Act must be started;
 - (d) how rights of appeal under this Act are to be exercised;
 - (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

Note—

For appeals against refusal to approve an assessable transfer, see part 4.

Part 2 Recording associated agreements

318AAZA Application of pt 2

This part applies to the following mining tenements—

- (a) a mining claim;
- (b) an exploration permit;
- (c) a mineral development licence;
- (d) a mining lease.

318AAZB Definition for pt 2

In this part—

associated agreement, for a mining tenement, means an agreement relating to the mining tenement, other than the following—

[s 318AAZC]

- (a) a dealing with the mining tenement;
- (b) a dealing with the mining tenement that is prohibited under section 318AAQ;
- (c) another agreement prescribed under a regulation as unsuitable to be recorded in the register.

318AAZC Recording associated agreements

- (1) An associated agreement for a mining tenement may be recorded in the register against the mining tenement.
- (2) Registration of an associated agreement may be sought by giving the chief executive a notice of the agreement in the approved form.
- (3) An approved form given to the chief executive under this section must be accompanied by the fee prescribed under a regulation.
- (4) The chief executive is not required to examine, or to determine the validity of, an associated agreement recorded in the register under this section.

318AAZD Effect of recording associated agreements

The recording of an associated agreement under this part does not of itself—

- (a) give the agreement any more effect or validity than it would otherwise have; or
- (b) create an interest in the mining tenement against which it is recorded.

Part 3 Caveats

318AAZE Application of pt 3

- (1) This part applies to the following mining tenements—
 - (a) a mining claim;
 - (b) an exploration permit;
 - (c) a mineral development licence;
 - (d) a mining lease.
- (2) This part also applies to application transfers.

318AAZF Requirements of caveats

- (1) A caveat must—
 - (a) be lodged in the approved form; and
 - (b) be signed by the caveator, the caveator's solicitor or another person authorised in writing by the caveator; and
 - (c) state the name and address for service of 1 person upon whom any notice may be served in order to serve the caveator; and
 - (d) identify the mining tenement, or application for a mining lease, the subject of the caveat; and
 - (e) state the nature of the right or interest claimed by the caveator; and
 - (f) state the period for which the caveat is to continue in force; and
 - (g) if a person consents to the lodging of the caveat, be endorsed with the person's consent; and
 - (h) be accompanied by the lodgement fee prescribed under a regulation.

[s 318AAZG]

- (2) A caveat that does not comply with subsection (1) is of no effect.

318AAZG Lodging of caveat

- (1) A caveat may be lodged by any of the following—
- (a) a person claiming an interest in a mining tenement or application for a mining lease;
 - (b) the registered holder of a mining tenement or an applicant for a mining lease;
 - (c) a person to whom an Australian court has ordered that an interest in a mining tenement or application for a mining lease be transferred;
 - (d) a person who has the benefit of a subsisting order of an Australian court restraining—
 - (i) a registered holder of a mining tenement from dealing with the mining tenement; or
 - (ii) an applicant for a mining lease from dealing with the application.
- (2) A caveat lodged under this section can not be registered if it applies to any of the following—
- (a) an application for indicative approval;
 - (b) an indicative approval given by the Minister;
 - (c) an application for approval of an assessable transfer;
 - (d) a notice to register a dealing given to the chief executive under section 318AAT.

318AAZH Chief executive's functions on receipt of caveat

- (1) On receipt of a caveat complying with section 318AAZF(1), the chief executive must—
- (a) notify—

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- (i) each holder of the affected mining tenement of the receipt of the caveat; or
 - (ii) each applicant for the affected application for a mining lease of the receipt of the caveat; and
- (b) notify all other persons who have an interest in the mining tenement or application as recorded in the register, including any subsisting prior caveator, of the receipt of the caveat; and
- (c) record the existence of the caveat in the register.
- (2) For subsection (1)(b), a person does not have an interest in a mining tenement only because the person is a party to an associated agreement recorded in the register against the mining tenement.

318AAZI Effect of lodging caveat

- (1) Until a caveat lapses, or is removed or withdrawn, the caveat prevents registration of a dealing with a mining tenement or an application transfer over which the caveat is lodged from the date and time endorsed by the chief executive on the caveat as the caveat's date and time of lodgement.
- (2) However, lodgement of a caveat does not prevent registration of the following—
- (a) an instrument stated in the caveat as an instrument to which the caveat does not apply;
 - (b) an instrument if the caveator consents, in the approved form, to its registration and the consent is lodged with the chief executive;
 - (c) an instrument executed by a mortgagee whose interest was registered before lodgement of the caveat if—
 - (i) the mortgagee has power under the mortgage to execute the instrument; and

[s 318AAZJ]

- (ii) the caveator claims an interest in the mining tenement as security for the payment of money or money's worth;
- (d) an instrument of transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat;
- (e) another interest that, if registered, will not affect the interest claimed by the caveator.
- (3) The exception in subsection (2)(d) does not apply to a caveat lodged by the mining tenement holder.
- (4) Lodgement of a caveat does not create in the caveator an interest in the mining tenement, or the application for a mining lease, affected by the caveat.

318AAZJ Lapsing, withdrawal or removal of caveat

- (1) An agreed caveat lapses at the expiration of the term stated in the caveat but, if no term is stated, the caveat continues until it is withdrawn or removed.
- (2) A caveat that is not an agreed caveat lapses—
 - (a) if an order of the Land Court is in force in relation to the caveat—at the expiration of the order; or
 - (b) otherwise—at the expiration of 3 months after the date of lodgement of the caveat or a shorter term stated in the caveat.
- (3) A caveator may withdraw the caveat by notifying the chief executive in writing.
- (4) An affected person for a caveat may apply to the Land Court for an order that the caveat be removed.
- (5) The Land Court may make the order whether or not the caveator has been served with the application, and may make the order on the terms it considers appropriate.

(6) If a caveat is withdrawn, lapses or is ordered to be removed, the chief executive must record the withdrawal, lapse or removal in the register.

(7) In this section—

affected person, for a caveat, means a person—

- (a) who has a right or interest (present or prospective) in the mining tenement, or the application for a mining lease, the subject of the caveat; or
- (b) whose right (present or prospective) to deal with the mining tenement, or the application for a mining lease, the subject of the caveat is affected by the caveat.

agreed caveat means a caveat to which—

- (a) for a caveat affecting a mining tenement—each holder of the mining tenement the subject of the caveat has consented, if the consent has been lodged with the caveat; or
- (b) for a caveat affecting an application for a mining lease—each applicant for the application the subject of the caveat has consented, if the consent has been lodged with the caveat.

318AAZK Further caveat not available to same person

- (1) This section applies if a caveat (the ***original caveat***) is lodged in relation to an interest.
- (2) A further caveat with the same caveator can never be lodged in relation to the interest on the same, or substantially the same, grounds as the grounds stated in the original caveat unless—
 - (a) for a caveat affecting a mining tenement—the consent of each holder of the mining tenement the subject of the caveat has been lodged with the caveat; or
 - (b) for a caveat affecting an application for a mining lease—the consent of each applicant for the application

[s 318AAZL]

the subject of the caveat has been lodged with the caveat; or

- (c) generally—the leave of a court of competent jurisdiction to lodge the further caveat has been granted.

318AAZL Compensation for lodging caveat without reasonable cause

A person who lodges a caveat in relation to a mining tenement or an application for a mining lease without reasonable cause is liable to compensate anyone else who suffers loss or damage because of the caveat.

Part 4 Appeals about approvals of assessable transfers

318AAZM Who may appeal

- (1) A person whose interests are affected by a decision of the Minister to refuse to approve an assessable transfer may appeal against the decision to the Land Court.
- (2) For this section, a person who has been given or is entitled to be given a notice about the decision under section 318AAZ is taken to be a person whose interests are affected by the decision.

318AAZN Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) if the person has been given a 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 starting the appeal.

318AAZO Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the Land Court.
- (2) The appellant must give the chief executive a copy of the notice.

318AAZP 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 it is stayed.

318AAZQ Hearing procedures

- (1) In deciding an appeal, the Land Court—
 - (a) has the same powers as the Minister; 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.

[s 318AAZR]

- (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.

318AAZR Land Court's powers on appeal

- (1) In deciding an appeal under this part, 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 Minister with the directions the 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 Minister.

Chapter 8 Provisions for coal seam gas

Part 1 Preliminary

Division 1 Introduction

318A Main purposes of ch 8

The main purposes of this chapter are, in conjunction with the Petroleum and Gas (Production and Safety) Act, chapter 3, and the *Petroleum Act 1923*, part 6F, to—

- (a) clarify rights under this Act to mine coal seam gas; and

Note—

For the limited entitlement to mine coal seam gas under this Act, see part 8, division 1.

- (b) address issues arising for coal seam gas mining under this Act, and, in particular, issues arising when a coal mining lease or an oil shale mining lease and a petroleum lease are granted over the same area; and
- (c) provide security of tenure to protect existing operations and investments relating to coal, oil shale and petroleum; and

Note—

See also chapter 15, part 2, division 6.

- (d) provide certainty of tenure for future investments relating to coal, oil shale and petroleum; and
- (e) optimise the development and use of the State's coal, oil shale and petroleum resources to maximise the benefit for all Queenslanders; and
- (f) ensure, if it is commercially and technically feasible, the grant of coal mining leases and oil shale mining leases

[s 318AA]

that may affect petroleum exploration or production, or proposed petroleum exploration or production, optimises the commercial use of coal, oil shale and petroleum resources in a safe and efficient way.

Note—

For provisions regulating the safety of coal seam gas exploration or production, see the *Coal Mining Safety and Health Act 1999* and the Petroleum and Gas (Production and Safety) Act, chapter 9.

318AA How main purposes are achieved

- (1) The main purposes of this chapter are achieved by—
- (a) ensuring commercial coal seam gas production (other than for use for mining under a coal mining lease or an oil shale mining lease) is carried out under a relevant petroleum lease; and

Note—

See, however, chapter 15, part 2, division 6.

- (b) providing for processes to decide the priority of overlapping coal mining leases or oil shale mining leases and petroleum tenure applications or potential applications; and
- (c) imposing additional requirements for deciding the overlapping applications; and
- (d) requiring proposed development plans to accompany all coal mining lease and oil shale mining lease applications; and
- (e) imposing restrictions on the authorised activities for particular coal or oil shale mining tenements; and
- (f) imposing additional—
 - (i) requirements relating to development plans for coal mining leases and oil shale mining leases; and
 - (ii) conditions on coal or oil shale mining tenements.

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- (2) The following are also relevant to the achievement of the purposes—
- (a) section 3A and chapter 15, part 2, division 6;
 - (b) the Petroleum and Gas (Production and Safety) Act, section 10, chapter 2, part 8 and chapter 3.

318AB Relationship with ch 4–6 and ch 7, pt 1

- (1) Requirements and restrictions under this chapter apply as well as any relevant requirements and restrictions under chapters 4 to 6 and chapter 7, part 1.
- (2) If this chapter imposes a requirement for, or a restriction on, the granting, renewal, consolidation, transfer or subleasing of a coal or oil shale mining tenement, the mining tenement can not be granted, renewed, consolidated, transferred or subleased if the restriction applies or if the requirement has not been complied with.
- (3) If this chapter imposes a requirement for, or a restriction on, the carrying out of an authorised activity for a coal or oil shale mining tenement, despite chapters 4 to 6 and chapter 7, part 1, the activity is not an authorised activity for the tenure while the restriction applies or if the requirement has not been complied with.
- (4) If a provision of this chapter conflicts with a provision of chapters 4 to 6 and chapter 7, part 1, the provision of this chapter prevails to the extent of the inconsistency.

Division 2 Definitions for chapter 8

318AC What is *coal seam gas* and *incidental coal seam gas*

- (1) *Coal seam gas* is a substance (in any state) occurring naturally in association with coal or oil shale, or with strata associated with coal or oil shale mining, if the substance is petroleum

[s 318AD]

under the Petroleum and Gas (Production and Safety) Act.

- (2) *Incidental coal seam gas* is defined in section 318CM(2).

318AD What is *oil shale*

Oil shale is shale or other rock (other than coal) from which a gasification or retorting product, as defined in the Petroleum and Gas (Production and Safety) Act, may be extracted or produced.

318AE What is a *coal exploration tenement*, a *coal mining lease* and a *special coal mining lease*

- (1) A *coal exploration tenement* is an exploration permit or mineral development licence granted for coal.
- (2) A *coal mining lease* is—
- (a) a mining lease for coal; or
 - (b) a mining lease or special coal mining lease granted under any of the following Acts, an agreement provided for under any of the Acts or any amendment of an agreement provided for under any of the Acts—
 - (i) the *Central Queensland Coal Associates Agreement Act 1968*;
 - (ii) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962 to 1965*; or

Note—

For specific provisions dealing with mining leases mentioned in this paragraph, see subdivision 3.

- (c) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining.
- (3) Subsections (1) and (2)(a) apply whether or not the permit, licence or lease is also granted for another mineral.

318AF What is an *oil shale exploration tenement* and an *oil shale mining lease*

- (1) An *oil shale exploration tenement* is an exploration permit or mineral development licence granted for oil shale.
- (2) An *oil shale mining lease* is—
 - (a) a mining lease for oil shale; or
 - (b) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of oil shale mining, whether or not it is also granted for a purpose other than oil shale mining.
- (3) Subsections (1) and (2)(a) apply whether or not the permit, licence or lease is also granted for another mineral.

318AG What is a *coal or oil shale mining tenement*

A *coal or oil shale mining tenement* is—

- (a) a coal or oil shale exploration tenement; or
- (b) a coal mining lease or an oil shale mining lease.

318AH What is a *development plan* and its *plan period*

- (1) The *development plan*, for a coal mining lease or an oil shale mining lease, is its current initial or later development plan, as approved under part 9.
- (2) For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.

Note—

See also sections 318DK and 318EE.

- (3) The period to which a development plan applies is its *plan period*.

318AI Petroleum tenures

- (1) A *petroleum lease* is a petroleum lease under the *Petroleum Act 1923* or the Petroleum and Gas (Production and Safety) Act.
- (2) An *authority to prospect* is an authority to prospect under the *Petroleum Act 1923* or the Petroleum and Gas (Production and Safety) Act.
- (3) A *petroleum tenure* is an authority to prospect or a petroleum lease.

318AJ What is a *coordination arrangement*

A *coordination arrangement* is a coordination arrangement under the Petroleum and Gas (Production and Safety) Act.

318AK What is *the public interest*

The public interest is a consideration of each of the following—

- (a) government policy;
- (b) value of commodity production (including time value);
- (c) employment creation;
- (d) total return to the State and to Australia (including royalty and rent), assessed on both a direct and indirect basis, so that, for example, downstream value adding is included;
- (e) social impacts;
- (f) the overall economic benefit for the State, or a part of the State, in the short and long term.

Division 3 Relationship with particular special agreement Acts

318AL Application of ch 8 to grant of special coal mining lease under Central Queensland Coal Associates Agreement Act 1968

- (1) This chapter applies to the granting of a special coal mining lease under the *Central Queensland Coal Associates Agreement Act 1968* (the *CQCA Act*).
- (2) If this chapter imposes a requirement for, or a restriction on, the granting of a special coal mining lease under the CQCA Act, the lease can not be granted if the restriction applies or if the requirement has not been met.
- (3) For this section, the grant of a lease includes an addition to the land subject to an existing special coal mining lease granted under the special agreement Act.
- (4) This section applies despite any provision of the CQCA Act.

318AM Chapter prevails over special agreement Acts

If a provision of this chapter conflicts with a provision of an Act or agreement mentioned in section 318AE(2)(b), the provision of this chapter prevails to the extent of the inconsistency.

318AN No compensation

- (1) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the enactment or operation of this division or section 318AE(2)(b).
- (2) Subsection (1) applies despite any provision of a special agreement Act and despite any other Act or law.

Part 2

Obtaining coal or oil shale mining lease over land in area of authority to prospect (other than by or jointly with, or with the consent of, authority to prospect holder)

Division 1

Preliminary

318AO Application of pt 2

- (1) This part applies if a person wishes to apply for a coal mining lease or an oil shale mining lease for all or part of the land in the area of an authority to prospect.
- (2) However, this part does not apply if—
 - (a) the person is the authority to prospect holder; or
 - (b) the application is to be made jointly with the holder; or
 - (c) the application is made with the holder's written consent; or
 - (d) the land is also in the area of a petroleum lease and the same person holds the authority to prospect and the petroleum lease.

Notes—

- 1 For the circumstances mentioned in subsection (2)(a) to (c), see part 3.
- 2 For the circumstance mentioned in subsection (2)(d), see part 6.

Division 2 Provisions for making coal or oil shale mining lease application

318AP Additional requirements for making application

- (1) The application must include—
 - (a) a statement (a *CSG statement*) assessing—
 - (i) the likely effect of proposed coal mining on the future development of petroleum production from the land; and
 - (ii) the technical and commercial feasibility of coordinated petroleum production and coal or oil shale mining from the land; and
 - (b) a proposed development plan that complies with the initial development plan requirements; and

Note—

For requirements for proposed initial development plans, see part 9, division 2.

- (c) other information that addresses the matters mentioned in subsection (2) (the *CSG assessment criteria*), other than the matter mentioned in subsection (2)(c)(iii).
- (2) The CSG assessment criteria are—
 - (a) the initial development plan requirements; and
 - (b) the legitimate business interests of the applicant and the authority to prospect holder (the *parties*); and

Examples of a party's legitimate business interests—

- 1 contractual obligations
 - 2 the effect on, and use of, existing infrastructure or mining or production facilities
 - 3 exploration expenditure on relevant overlapping tenures
- (c) the effect of the proposed mining lease on the future development of petroleum resources in the land, including for example, each of the following—

- (i) the proposed timing and rate of coal or oil shale mining and the development of petroleum from the land;
 - (ii) the potential for the parties to make a coordination arrangement about—
 - (A) coal or oil shale mining and any incidental coal seam gas mining under the proposed mining lease; and
 - (B) petroleum production under any future petroleum lease over the land;
 - (iii) the attempts required of the applicant under section 318AT(1)(b) and any change of the type mentioned in section 318AT(1)(c);
 - (iv) the economic and technical viability of the concurrent or coordinated coal or oil shale mining and the development of any petroleum from the land;
 - (v) the extent, nature and value of coal or oil shale mining and the development of any petroleum in the land; and
 - (d) the public interest in coal or oil shale mining and petroleum production from the land, having regard to the public interest.
- (3) For subsection (2), if the proposed mining lease is to be granted under section 234(1)(b) for a purpose associated with, arising from or promoting the activity of mining, a reference to mining in the land includes a reference to mining in other land associated with the lease.

Division 3 Provisions for applications in particular circumstances

318AQ Applications relating to authority to prospect and petroleum lease not held by same person

- (1) This section applies if a person to whom this part applies wishes to make an application to which this part applies—
 - (a) for land in the area of each of the following—
 - (i) the authority to prospect (the *authority to prospect part*);
 - (ii) a petroleum lease (the *petroleum lease part*); and
 - (b) the authority to prospect and the petroleum lease are not held by the same person.

Note—

If the authority to prospect and the petroleum lease are held by the same person, see part 6.

- (2) The person may lodge separate mining lease applications for the authority to prospect part and the petroleum lease part.
- (3) A separate application for the authority to prospect part, or the part of an application that relates to the authority to prospect part, must be decided under this part.
- (4) A separate application for the petroleum lease part, or the part of an application that relates to the petroleum lease part, must be decided under part 5 or 6.

318AR Applications relating to other land

- (1) This section applies if a person to whom this part applies wishes to make an application to which this part applies and the proposed application includes land (the *other part*) not in the area of another petroleum tenure.
- (2) The person may lodge a separate mining lease application for the other part.

- (3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 6, part 1.

Division 4 **Obligations of applicant and authority to prospect holder**

318AT Applicant's obligations

- (1) The applicant must—
- (a) within 10 business days after making the application, give the authority to prospect holder a copy of the application, other than the part of the application consisting of the statement mentioned in section 245(1)(o)(iv); and
 - (b) use reasonable attempts to—
 - (i) consult with the authority to prospect holder about the applicant's proposed development plan; and
 - (ii) make an appropriate arrangement with the authority to prospect holder about testing for petroleum production carried out, or proposed to be carried out, by the authority to prospect holder (a *testing arrangement*); and

Example of testing—

production testing

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

- (c) change the proposed development plan to give effect to any reasonable proposal by the authority to prospect holder that will optimise petroleum production under any future petroleum lease over the land; and
- (d) within 4 months after making the application, lodge a written notice stating each of the following—

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- (i) the details of the consultation;
 - (ii) the results of the consultation;
 - (iii) any comments the applicant wishes to make about any submissions lodged by the authority to prospect holder, under section 318AX;
 - (iv) any changes to the proposed development plan;
 - (v) if a testing arrangement has been made—details of the arrangement;
 - (vi) if a testing arrangement has not been made—details of the attempts made to make a testing arrangement;
 - (vii) the applicant's assessment of the potential of the applicant and the authority to prospect holder to make a coordination arrangement about—
 - (A) coal or oil shale mining and any incidental coal seam gas mining under the proposed mining lease; and
 - (B) petroleum production under any future petroleum lease over the land.
- (2) However, the obligations under subsection (1)(b)(ii) and (c) apply only to the extent the provisions or arrangement are commercially and technically feasible for the applicant.
- (3) For subsection (1)(b)(ii), it is appropriate for the testing arrangement to give the authority to prospect holder the right to carry out testing for petroleum production to help the holder make, or allow the deciding of, an application under the Petroleum and Gas (Production and Safety) Act, chapter 2, part 1, division 6.

Note—

See the Petroleum and Gas (Production and Safety) Act, chapter 2, part 1, division 6 (Potential commercial areas).

- (4) However, subsection (3) does not require the applicant to agree to testing having a duration of more than 12 months.

318AU Minister may require further negotiation

- (1) The Minister may, after receiving the notice under section 318AT(1)(d), require the applicant to conduct negotiations with the authority to prospect holder with a view to—
 - (a) making a testing arrangement mentioned in section 318AT(1)(b)(ii); or
 - (b) making changes of a type mentioned in section 318AT(1)(c).
- (2) The applicant must use all reasonable attempts to comply with the requirement.

318AV Consequence of applicant not complying with obligations or requirement

If the Minister is reasonably satisfied the applicant has not complied with an obligation under section 318AT or 318AU, the application may be rejected.

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

318AW Authority to prospect holder's obligations

The authority to prospect holder must—

- (a) within 20 business days after receiving a copy of the application, give the applicant basic information the authority holder has about the following that the applicant may reasonably need to comply with sections 318AP and 318AT—
 - (i) the type of exploration activities carried out, or proposed to be carried out under the authority;
 - (ii) petroleum in the land; and
- (b) after receiving a copy of the application, use reasonable attempts to reach an agreement with the applicant, about the matters mentioned in section 318AT(1)(b) and (c),

that provides the best resource use outcome without significantly affecting the parties' rights or interests.

318AX Submissions by authority to prospect holder

- (1) The authority to prospect holder may lodge submissions about the application.
- (2) However, the submissions may be lodged only within 3 months after the holder is, under section 318AT(1)(a), given a copy of the application (the *submission period*).
- (3) The submissions may—
 - (a) state that the holder does not object to the granting of the proposed mining lease; and
 - (b) state that the holder does not wish any preference for the future development of petroleum production from the land (*petroleum development preference*); and
 - (c) include information about all or any of the following—
 - (i) exploration carried out under the authority;
 - (ii) the results of the exploration;
 - (iii) the prospects for future petroleum production from the land; and
 - (d) include a proposal by the authority to prospect holder for petroleum production from the land; and
 - (e) include information relevant to the CSG assessment criteria.

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the application, regard must be had to the submissions.

Division 5 Priority for earlier petroleum lease application or proposed application

318AY Earlier petroleum lease application

- (1) If—
 - (a) before the making of the mining lease application, a petroleum lease application was made for the land; and
 - (b) the petroleum lease application complies with the Petroleum and Gas (Production and Safety) Act; and
 - (c) the petroleum lease application has not been decided;a certificate of public notice can not be issued for the mining lease application until the petroleum lease application has been decided.
- (2) However, subsection (1) does not apply if—
 - (a) the mining lease application was made in response to an invitation in a notice given under the Petroleum and Gas (Production and Safety) Act, section 323 and the application was made within 6 months after the giving of the notice; or
 - (b) the petroleum lease applicant has given written consent to the mining lease application.

Note—

See, however, the Petroleum and Gas (Production and Safety) Act, chapter 3, part 2, division 3 (Petroleum lease applications in response to Mineral Resources Act preference decision) and section 315 (Earlier coal or oil shale mining lease application).

318AZ Proposed petroleum lease for which EIS approval given

- (1) This section applies if—
 - (a) before the making of the mining lease application, an approval under the Environmental Protection Act, chapter 3, part 2, was granted for the voluntary

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- preparation of an EIS for a project that is, or includes, a proposed petroleum lease for the land; and
- (b) the proponent for the EIS—
- (i) is, or includes, the authority to prospect holder; or
 - (ii) is someone else who has the authority holder's consent.
- (2) A certificate of public notice can not be issued for the mining lease application until an application for the proposed petroleum lease is decided.
- (3) However, subsection (2) ceases to apply if—
- (a) the proponent of the EIS does not make a petroleum lease application for the land within 1 year after the granting of the approval; or
 - (b) a petroleum lease application for the land is made within the period mentioned in paragraph (a) and—
 - (i) it does not comply with the Petroleum and Gas (Production and Safety) Act; or
 - (ii) it is decided; or
 - (c) the proponent for the EIS has given written consent to the mining lease application.

318B Proposed petroleum lease declared a coordinated project

- (1) This section applies if—
- (a) before the making of the mining lease application, a project is declared a coordinated project under the *State Development and Public Works Organisation Act 1971* that is, or includes, a proposed petroleum lease for the land; and

Note—

See the *State Development and Public Works Organisation Act 1971*, section 26 (Declaration of coordinated project).

- (b) the proponent for the coordinated project—

- (i) is, or includes, the authority to prospect holder; or
 - (ii) is someone else who has the authority holder's consent.
- (2) A certificate of public notice can not be issued for the mining lease application until the application for the proposed petroleum lease is decided.
- (3) However, subsection (2) ceases to apply if—
 - (a) the proponent of the coordinated project does not make a petroleum lease application for the land within 1 year after the making of the declaration; or
 - (b) a petroleum lease application for the land is made within the period mentioned in paragraph (a) and—
 - (i) it does not comply with the Petroleum and Gas (Production and Safety) Act; or
 - (ii) it is decided; or
 - (c) the proponent of the coordinated project has given written consent to the mining lease application.

Division 6 Ministerial decision about whether to give any preference to petroleum development

318BA When preference decision is required

- (1) This division applies for the application only if the Minister is satisfied of each of the following—
 - (a) there is a resource or reserve (the *deposit*) of petroleum in the land;
 - (b) the deposit has been identified under the relevant codes;
 - (c) there is the level of knowledge about the deposit, as prescribed under a regulation;

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- (d) the location, quantity, quality, geological characteristics and continuity of the deposit are known, or have been estimated or interpreted, from specific geological evidence and knowledge;
- (e) there are reasonable prospects for the eventual economic production of the deposit.
- (2) However, this division does not apply if—
- (a) the authority to prospect holder has not complied with section 318AW(a); or
- (b) the authority to prospect holder has, under section 318AX, lodged a submission stating that the holder does not wish any petroleum development preference for the land; or
- (c) the authority to prospect holder has not lodged any submission under section 318AX within the submission period.
- (3) If the Minister decides that the Minister is not satisfied as mentioned in subsection (1), the authority holder must be given notice of the decision.
- (4) In this section—
- relevant codes*** means any of the following—
- (a) the following documents published by the Society of Petroleum Engineers (***SPE***), as amended and published from time to time—
- (i) the document called ‘Petroleum Resources Classification System and Definitions’;
- (ii) the documents called ‘Petroleum Reserves Definitions’ and ‘Standards Pertaining to the Estimating and Auditing of Oil and Gas Reserve Information’;

Editor’s note—

The SPE’s website address is <www.spe.org>.

- (b) another document (however called) published by SPE that amends or replaces the documents mentioned in paragraph (a);
- (c) if a document mentioned in paragraph (a) or (b) stops being published—another similar document prescribed under a regulation.

Notes—

- 1 If the Minister is not satisfied as mentioned in subsection (1), the application can be decided under chapter 6, part 1.
- 2 If this subdivision does not apply because of subsection (2), the application can be decided under chapter 6, part 1 and division 8.

318BB Decision about whether to give any preference to petroleum development

- (1) Subject to section 318BC, the Minister must decide whether to—
 - (a) grant the mining lease under section 271A; or
 - (b) give any petroleum development preference for the land, in whole or part.
- (2) The decision under subsection (1) is the *preference decision*.
- (3) In making the preference decision the CSG assessment criteria must be considered.
- (4) If, under the Petroleum and Gas (Production and Safety) Act, chapter 3, part 2, division 1, subdivision 6, coal or oil shale development preference has been given for the land, the preference decision is taken to be not to give any petroleum development preference for any of the land.

318BC Reference to Land Court before making preference decision

- (1) Before making the preference decision—
 - (a) the chief executive must refer the application to the Land Court for it to make recommendations to the

Minister about what the preference decision should be;
and

- (b) the Minister must consider the recommendations.
- (2) The referral must be made by filing a notice in the approved form with the registrar of the Land Court.
- (3) The referral starts a proceeding before the Land Court for it to make the recommendations.
- (4) The parties to the proceeding are the applicant and the authority to prospect holder.
- (5) In making the recommendations—
 - (a) the CSG assessment criteria must be considered; and
 - (b) section 318BD applies as if a reference in the section—
 - (i) to the Minister were a reference to the Land Court; and
 - (ii) to petroleum development preference were a reference to recommending petroleum development preference.
- (6) The recommendations may also include recommendations about the conditions and term of the mining lease.

318BD Restrictions on giving preference

- (1) Petroleum development preference, in whole or part, must not be given unless this section has been complied with.
- (2) Petroleum development preference may be given only if the Minister is satisfied of each of the following—
 - (a) on the basis of the submissions and the results of consultation lodged under sections 318AT and 318AX, it is either not commercially or technically feasible or it is unlikely that the applicant and the authority holder are able to make a future coordination arrangement about—

- (i) coal or oil shale mining and any incidental coal seam gas mining under the proposed mining lease; and
 - (ii) petroleum production under any future petroleum lease for the land;
- (b) that, having regard to the public interest, the public interest in the following would be best served by not granting a mining lease to the mining lease applicant first—
 - (i) coal or oil shale mining and any incidental coal seam gas mining;
 - (ii) petroleum production;
- (c) if the petroleum is a brownfield petroleum resource—
 - (i) it is critical to the continuance of existing petroleum production or processing or the efficient use of infrastructure related to the production or processing; and
 - (ii) the applicant's proposed development plan is incompatible with the future development of the resource;
- (d) if the petroleum is a greenfield petroleum resource—
 - (i) it is commercially viable; and
 - (ii) petroleum production will, if a petroleum lease is granted to the authority to prospect holder, start within 2 years after the grant of the lease.

(3) In this section—

brownfield petroleum resource means petroleum associated with, or adjacent to, existing petroleum production or a processing operation under the Petroleum and Gas (Production and Safety) Act.

greenfield petroleum resource means petroleum not associated with, or adjacent to, existing petroleum production

or a processing operation under the Petroleum and Gas
(Production and Safety) Act.

Division 7 Process if preference decision is to give any preference to petroleum development

318BF Application of div 7

This division applies only if, under section 318BA, a preference decision is required and that decision was to give petroleum development preference for the whole or part of the land.

318BG Notice to applicant and authority to prospect holder

- (1) The mining lease applicant and the authority to prospect holder must be given written notice of the preference decision.
- (2) The notice must invite the authority to prospect holder to, within 6 months after the giving of the notice (the *petroleum lease application period*), apply for a petroleum lease for—
 - (a) if the preference is for all of the land—all of the land; or
 - (b) if the preference is for part of the land—that part.

318BH Petroleum lease application for all of the land

- (1) This section applies if the preference is for all of the land and, within the petroleum lease application period, the authority to prospect holder applies for a lease for all of the land.
- (2) A further step can not be taken to decide the mining lease application until after the petroleum lease application has been decided.

Note—

See, however, Petroleum and Gas (Production and Safety) Act, chapter 3, part 2, division 3 (Petroleum lease applications in response to Mineral Resources Act preference decision).

- (3) If the decision on the petroleum lease application is to grant a petroleum lease for all of the land, the mining lease application is taken to have lapsed, unless the petroleum lease applicant has consented in writing to the application.

318BI Petroleum lease application for part of the land

- (1) This section applies if the authority to prospect holder applies for a petroleum lease for part of the land within the petroleum lease application period.
- (2) The mining lease applicant may, by notice lodged with the chief executive, amend the mining lease application so that a mining lease is only sought for all or part of the rest of the land.
- (3) Unless the amendment is made, a further step can not be taken to decide the mining lease application until after the petroleum lease application has been decided.

Note—

See, however, the Petroleum and Gas (Production and Safety) Act, chapter 3, part 2, division 3 (Petroleum lease applications in response to Mineral Resources Act preference decision).

- (4) If—
 - (a) the amendment has not been made; and
 - (b) the decision on the petroleum lease application is to grant a petroleum lease for part of the land;the mining lease applicant may amend the mining lease application so that a mining lease is only sought for all or part of the rest of the land.

Note—

See, however, section 318CB.

318BJ No petroleum lease application

If the authority to prospect holder does not apply for a petroleum lease for any of the land within the petroleum lease application period, the mining lease application may be decided.

Division 8 Deciding mining lease

318BK Application of div 8

This division applies if—

- (a) the authority to prospect holder has not complied with section 318AW(a); or
- (b) the authority to prospect holder has, under section 318AX, lodged a submission stating that the holder does not wish any petroleum development preference for the land; or
- (c) the authority to prospect holder has not lodged any submission under section 318AX within the submission period; or
- (d) under section 318BA, a preference decision is required and—
 - (i) the preference decision was not to give petroleum development preference for any of the land; or
 - (ii) the preference decision was to give petroleum development preference for the whole or part of the land and, after division 7 is complied with, the Minister decides, under section 271A, to grant a coal mining lease or an oil shale mining lease for the land.

318BL Additional criteria for deciding conditions or term

- (1) In making a decision as follows, regard must be had to the prescribed criteria—
 - (a) deciding conditions of the mining lease under section 276(1)(m);
 - (b) deciding the term of the lease under section 284.
- (2) This section does not limit the power under section 276(1)(m) to determine conditions of the mining lease.
- (3) In this section—

prescribed criteria means each of the following—

- (a) the CSG assessment criteria;
- (b) the effect of the mining lease on safe and efficient petroleum production under any adjacent lease;
- (c) the effect on safe and efficient petroleum production under any future petroleum lease that arises from the authority to prospect.

318BM Power to determine relinquishment condition

- (1) A condition of the mining lease determined under section 276(1)(m) may be that its holder is required, by a lodged notice, to relinquish a stated part or percentage of its area at stated times or intervals.

Note—

See, however, section 318CZ.

- (2) A condition determined under subsection (1) is called a *relinquishment condition*.

Note—

See also section 318CX.

- (3) A relinquishment under a relinquishment condition takes effect on the day after the notice is lodged.

- (4) This section does not limit the power under section 276(1)(m) to determine conditions of the mining lease.

318BN Publication of outcome of application

- (1) After the Minister decides whether to grant the mining lease, the chief executive must publish a notice about the outcome of the application in the gazette or another publication the Minister considers appropriate.
- (2) The notice must state—
- (a) whether the Minister decided to grant, or not to grant, the mining lease; and
 - (b) if the decision was to grant—the conditions decided by the Minister; and
 - (c) if, under section 318BA, a preference decision is required and the preference decision was to give petroleum development preference for the whole or part of the land—the decision, and the reasons for it.
- (3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may, instead of publishing the condition, publish a statement about the intent of the condition.

Part 3

Obtaining coal or oil shale mining lease over land in area of authority to prospect (by or jointly with, or with the consent of, authority to prospect holder)

318BO Application of pt 3

- (1) This part applies if—
 - (a) land is in the area of an authority to prospect; and
 - (b) a person as follows wishes to apply for a coal mining lease or an oil shale mining lease for all or part of the land—
 - (i) the holder of a coal or oil shale exploration tenement or prospecting permit;
 - (ii) a person who wishes to make the application jointly with the exploration tenement or prospecting permit holder; and
 - (c) either—
 - (i) the applicant is the authority holder; or
 - (ii) the authority holder has given written consent to the making of the application.
- (2) However, this part does not apply if the land is also in the area of a petroleum lease and the same person holds the authority to prospect and the petroleum lease.

Note—

For the circumstances mentioned in subsection (2), see part 6.

318BP Additional requirements for making application

The application must include—

-
- (a) a CSG statement; and
 - (b) a proposed development plan that complies with the initial development plan requirements; and

Editor's note—

See part 9, division 2 (Requirements for proposed initial development plans).

- (c) other information that addresses the CSG assessment criteria.

318BQ Applications relating to petroleum lease and authority to prospect not held by same person

- (1) This section applies if—
 - (a) a person to whom this part applies wishes to make an application to which this part applies for land in the area of each of the following—
 - (i) the authority to prospect (the *authority to prospect part*);
 - (ii) a petroleum lease (the *petroleum lease part*); and
 - (b) the authority to prospect and the petroleum lease are not held by the same person.

Note—

If the authority to prospect and the petroleum lease are held by the same person, see part 5.

- (2) The person may lodge separate mining lease applications for the authority to prospect part and the petroleum lease part.
- (3) A separate application for the authority to prospect part, or the part of an application that relates to the authority to prospect part, must be decided under this part.
- (4) A separate application for the petroleum lease part, or the part of an application that relates to the petroleum lease part, must be decided under part 5 or 6.

318BR Applications relating to other land

- (1) This section applies if a person to whom this part applies wishes to make an application to which this part applies and the proposed application includes land (the *other part*) not in the area of another petroleum tenure.
- (2) The person may lodge a separate mining lease application for the other part.
- (3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 6, part 1.

318BT Priority for earlier petroleum lease application or proposed application

Part 2, division 5, applies for the mining lease application.

318BU Additional criteria for deciding conditions or term

- (1) In making a decision as follows, regard must be had to the conditions of the authority to prospect, any future development proposals of the authority to prospect holder and the likelihood of coordinated production of petroleum under a future petroleum lease—
 - (a) deciding conditions of the mining lease under section 276(1)(m);
 - (b) deciding the term of the lease under section 284.
- (2) This section does not limit the power under section 276(1)(m) to determine conditions for the mining lease.

Part 4

Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision

318BV Additional ground for refusing application

- (1) This section applies if—
 - (a) a coal or oil shale mining lease application is made in response to an invitation given under the Petroleum and Gas (Production and Safety) Act, section 323; and
 - (b) the application is made within 6 months after the giving of the invitation.

Note—

For a coal or oil shale mining lease application not made within the 6 months, see the Petroleum and Gas (Production and Safety) Act, section 326 (No mining lease application).

- (2) The Minister may refuse the application if satisfied the applicant has not, in a timely manner, taken any step in relation to the application required of the applicant under chapter 6 or this chapter.
- (3) Subsection (2) does not limit another ground for refusing the application under chapter 6 or this chapter.

Part 5

Obtaining coal or oil shale mining lease over land in area of petroleum lease (other than by or jointly with petroleum lease holder)

318BW Application of pt 5

- (1) This part applies if a person wishes to apply for a coal mining lease or an oil shale mining lease for all or part of the land in the area of a petroleum lease.
- (2) However, this part does not apply if—
 - (a) the person is the petroleum lease holder; or
 - (b) the application is to be made jointly with the holder.

Note—

For the circumstances mentioned in subsection (2), see part 6.

- (3) If—
 - (a) the land is also in the area of an authority to prospect; and
 - (b) the same person holds the petroleum lease and the authority to prospect;

a reference in this part to the petroleum lease holder includes a reference to the authority to prospect holder.

Note—

If the petroleum lease and the authority to prospect are held by different persons, see section 318BQ.

318BX Additional requirements for making application

The application must include—

- (a) a CSG statement; and

-
- (b) a proposed development plan that complies with the initial development plan requirements.

Note—

For requirements for proposed initial development plans, see part 9, division 2.

318BY Applications relating to other land

- (1) This section applies if—
- (a) a person to whom this part applies wishes to make an application to which this part applies; and
 - (b) the proposed application includes land (the *other part*) in the area of an authority to prospect held by someone else.
- (2) The person may lodge a separate mining lease application for the other part.
- (3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under part 2.

318C Notice to petroleum lease holder

The applicant must, within 10 business days after lodging the application, give the petroleum lease holder a copy of the application, other than the part of the application consisting of the statement mentioned in section 245(1)(o)(iv).

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

318CA Petroleum lease holder's obligation to negotiate

- (1) The petroleum lease holder must, after receiving the copy of the application, use reasonable attempts to reach a coordination arrangement with the applicant about the

following matters that provides the best resource use outcome without significantly affecting the parties' rights or interests—

- (a) coal or oil shale mining and any incidental coal seam gas mining under the proposed mining lease;
- (b) petroleum production under the petroleum lease for the land.

Note—

For the extent to which coal seam gas production is permitted under the coal or oil shale mining lease, see part 8, division 1.

- (2) However, the obligation under subsection (1) applies only to the extent that a coordination arrangement is commercially and technically feasible for the petroleum lease holder.

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

318CB Restriction on issuing certificate of public notice and additional requirements for grant

- (1) Section 252A does not apply for the application, and the Minister can not under section 271A grant the mining lease until—
 - (a) the applicant has negotiated, with the petroleum lease holder, a proposed coordination arrangement (a ***relevant arrangement***) about the following matters—
 - (i) coal or oil shale mining and any incidental coal seam gas under the proposed mining lease;
 - (ii) petroleum production under the petroleum lease; and
 - (b) the Minister has approved the relevant arrangement; and
 - (c) there is a safety and health management system that applies for the proposed mining lease; and
 - (d) the petroleum lease holder has lodged a notice that the holder has agreed to the system.

-
- (2) Subsections (3) and (4) apply if the Minister is satisfied the applicant and the petroleum lease holder have, as required under section 318CA, made reasonable attempts to reach a relevant arrangement and—
- (a) the petroleum lease holder has lodged a written notice stating there are no reasonable prospects of a relevant arrangement being made; or
 - (b) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the petroleum lease holder have had a reasonable opportunity to make a relevant arrangement.
- (2A) Despite subsection (1), a certificate of public notice may be issued under section 252A for the application if the petroleum lease holder has consented to the making of the application and the issuing of the notice.
- (3) A certificate of public notice can not be issued for the application.
- (4) The Minister may immediately decide to reject the application.
- (5) In this section—
- safety and health management system*** means—
- (a) for a coal mining lease—a safety and health management system under the *Coal Mining Safety and Health Act 1999*; or
 - (b) for an oil shale mining lease—a safety and health management system under the *Mining and Quarrying Safety and Health Act 1999*.

Part 6

Obtaining coal or oil shale mining lease over land in area of petroleum lease (by or jointly with petroleum lease holder)

318CC Application of pt 6

- (1) This part applies if a person as follows wishes to apply for a coal mining lease or an oil shale mining lease for all or part of the land in the area of a petroleum lease—
 - (a) the petroleum lease holder;
 - (b) a person who wishes to make the application jointly with the holder.
- (2) If—
 - (a) the land is also in the area of an authority to prospect; and
 - (b) the same person holds the petroleum lease and the authority to prospect;

a reference in this part to the petroleum lease holder includes a reference to the authority to prospect holder.

Note—

If the petroleum lease and the authority to prospect are held by different persons, see section 318BQ.

318CD Additional requirements for making application

The application must include—

- (a) a CSG statement; and
- (b) a proposed development plan that complies with the initial development plan requirements.

Note—

For requirements for proposed initial development plans, see part 9, division 2.

318CE Applications relating to other land

- (1) This section applies if—
 - (a) a person to whom this part applies wishes to make an application to which this part applies; and
 - (b) the proposed application includes land (the *other part*) in the area of an authority to prospect held by someone else.
- (2) The person may lodge a separate mining lease application for the other part.
- (3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under part 2.

318CG Additional criteria for deciding conditions

- (1) In deciding conditions of the mining lease under section 276(1)(m), regard must be had to—
 - (a) the conditions of the petroleum lease; and
 - (b) the development plan for the petroleum lease.
- (2) This section does not limit the power under section 276(1)(m) to determine conditions of the mining lease.

Part 7 Additional provisions for coal and oil shale exploration tenements

Division 1 Grant of coal or oil shale exploration tenement in area of authority to prospect

318CH Provisions for coal or oil shale exploration tenement

- (1) The *Petroleum Act 1923* and the Petroleum and Gas (Production and Safety) Act do not limit or otherwise affect the power under this Act to grant a coal or oil shale exploration tenement over land (the *overlapping land*) in the area of an authority to prospect.
- (2) However, an authorised activity for the coal or oil shale exploration tenement can not be carried out on the overlapping land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the authority to prospect; and
 - (b) the authorised activity for the authority to prospect has already started.

Division 2 Restriction on authorised activities on petroleum lease land

318CI Restriction

- (1) If land is in the area of a coal or oil shale exploration tenement and a petroleum lease, an authorised activity for the tenement may be carried out on the land only if—
 - (a) the petroleum lease holder has agreed in writing to the carrying out of the activity; and

- (b) a copy of the agreement has been lodged; and
 - (c) the agreement is still in force.
- (2) Subsection (1) does not apply, or ceases to apply, if the same person holds the tenement and the petroleum lease.

Division 3 Conditions

318CJ Notice of grant to authority to prospect holder or applicant

- (1) This section applies if, when a coal or oil shale exploration tenement is granted, land in the area of the tenement is in the area of an authority to prospect or a proposed area under an authority to prospect application.
- (2) It is a condition of the tenement that its holder must, within 20 business days after receiving notice of the grant, give the authority to prospect holder or the applicant written notice stating—
- (a) that the tenement has been granted; and
 - (b) the tenement holder's name; and
 - (c) the term of the tenement.

318CK Compliance with obligations under Petroleum and Gas (Production and Safety) Act

If an obligation under the Petroleum and Gas (Production and Safety) Act, section 313 or 371, applies to a coal or oil shale exploration tenement holder, it is a condition of the tenement that the holder must comply with the obligation.

[s 318CL]

Part 8 Additional provisions for coal mining leases and oil shale mining leases

Division 1 Entitlement to coal seam gas

318CL Application of pt 8

- (1) This part applies to a person (the *mining lease holder*) who holds a coal mining lease or an oil shale mining lease.

Note—

See, however, chapter 15, part 2, division 6.

- (2) This division is subject to division 2.

318CM Limited entitlement to mine coal seam gas

- (1) The mining lease holder may mine coal seam gas in the area of the lease only if—
 - (a) the mining happens as a necessary result of coal or oil shale mining carried out under the mining lease; or
 - (b) the mining is necessary to ensure a safe mine working environment for coal or oil shale mining under the mining lease; or
 - (c) the mining is necessary to minimise the fugitive emission of methane during the course of coal mining operations.
- (2) Coal seam gas mined, or proposed to be mined, under subsection (1) is called *incidental coal seam gas*.
- (3) To remove any doubt, it is declared that incidental coal seam gas includes coal seam gas in a goaf if the gas is mined, or proposed to be mined, under subsection (1).
- (4) In this section—

mine, for coal seam gas, includes extract, produce, release or dispose of the gas.

318CN Use that may be made under mining lease of incidental coal seam gas

(1) Subject to section 318CO, the mining lease holder may do the following in relation to incidental coal seam gas mined under section 318CM in the area of the mining lease—

(a) use it beneficially for mining under the mining lease;

Examples of possible uses of incidental coal seam gas for mining under the mining lease—

- 1 power generation for equipment used for any mining on the mining lease
- 2 heating

(b) transport or store it within the area of the mining lease to allow it to be used under paragraph (a);

Note—

See also the exemptions in the Petroleum and Gas (Production and Safety) Act, sections 800(2)(a) and (b) (Restriction on petroleum tenure activities) and 802 (Restriction on pipeline construction or operation).

(c) give it to a petroleum lease holder if—

- (i) the mining lease is over land that is in an area of a petroleum lease (the *overlapping land*); and
- (ii) the incidental coal seam gas has been mined in the overlapping land; and
- (iii) the mining lease holder has given the petroleum lease holder written notice (an *availability notice*) that the gas is available to the petroleum lease holder; and
- (iv) the petroleum lease holder has given the mining lease holder written notice (an *acceptance notice*) accepting the gas within 20 business days after being given the availability notice.

[s 318CO]

- (1A) An availability notice or acceptance notice may be given for incidental coal seam gas proposed to be mined under section 318CM(1).
- (2) The mining lease holder can not, under the mining lease, use the incidental coal seam gas for a purpose other than for mining under the mining lease or for giving it to a petroleum lease holder under subsection (1)(c).

Examples of a purpose other than mining—

- selling the incidental coal seam gas
- processing it
- transporting it, by way of a pipeline, outside the area of the mining lease
- using it for power generation and selling the power or supplying the power to a transmission grid as defined under the *Electricity Act 1994*, section 6

Notes—

- 1 If the mining lease holder wishes to use the incidental coal seam gas for a purpose other than for mining under the mining lease, the holder may apply for a petroleum lease. See the Petroleum and Gas (Production and Safety) Act, chapter 2, part 2, division 1 and chapter 3, part 3, division 3.
 - 2 For the entitlement of a petroleum lease holder to use incidental or other coal seam gas commercially, see the Petroleum and Gas (Production and Safety) Act, chapter 2, part 2, division 1 and chapter 3, part 5, division 1.
- (3) In this section—
mining, under the mining lease, includes mining for coal seam gas authorised under section 318CM.

318CO Restriction on flaring or venting of incidental coal seam gas

- (1) It is a condition of the mining lease that the mining lease holder must not flare or vent incidental coal seam gas mined under section 318CM(1) in the area of the mining lease unless the flaring or venting is authorised under this section.

-
- (2) Flaring the incidental coal seam gas is authorised if it is not commercially or technically feasible to use it—
 - (a) beneficially for mining under the mining lease; or
 - (b) commercially under a petroleum lease that the holder might be able to obtain.
 - (3) Venting the incidental coal seam gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2) or to flare it; or
 - (b) flaring it is not technically practicable; or
 - (c) for incidental coal seam gas that is vented as or with mine ventilation air—it is not commercially practicable to use the air.
 - (4) Venting the incidental coal seam gas is also authorised if—
 - (a) it is being used, or is proposed to be used, under a greenhouse abatement scheme; and
 - (b) if subsection (1) were to apply, the direct or indirect benefit the mining lease holder would otherwise obtain because of the use of the gas under the scheme would be reduced.
 - (5) Subsection (6) applies, despite subsections (2) to (4), if—
 - (a) a mining lease is over land in an area of a petroleum lease (the *overlapping land*); and
 - (b) incidental coal seam gas is, under section 318CM(1), mined from the overlapping land.
 - (6) Flaring or venting is authorised only if—
 - (a) the mining lease holder has given the petroleum lease holder written notice that the gas is available to the petroleum lease holder; and
 - (b) the petroleum lease holder has either not responded or has refused to accept the gas within 20 business days after receiving the notice.

[s 318CP]

(7) In this section—

greenhouse abatement scheme means—

(a) the *Electricity Supply Act 1995* (NSW), part 8A; or

Note—

See, in particular, the *Greenhouse Gas Benchmark Rule (Generation) No. 2 of 2003*, paragraph 10.1, made under the *Electricity Supply Act 1995* (NSW), section 97K.

(b) the Commonwealth's Greenhouse Gas Abatement Program; or

(c) another scheme about the abatement of greenhouse gases prescribed under a regulation.

Division 2 Provisions for mining coal seam gas from coextensive natural underground reservoirs

318CP Application of div 2

This division applies if a natural underground reservoir in the area of a coal mining lease or an oil shale mining lease extends to—

(a) the area of an adjacent coal mining lease, oil shale mining lease or petroleum lease (an ***adjacent lease***); or

(b) if a person has applied for a coal mining lease, oil shale mining lease or petroleum lease that will, if granted, be an adjacent lease—the area of the proposed lease.

Note—

See also the *Petroleum Act 1923*, section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs).

318CQ Coordination arrangement may be made about mining or production from reservoir

The mining lease holder and an adjacent lease holder, or proposed adjacent lease holder, may make a coordination arrangement that provides for the petroleum or coal seam gas that can, under this Act or the Petroleum and Gas (Production and Safety) Act, be mined or produced from the reservoir from within the area of the mining lease and the adjacent lease, or proposed adjacent lease.

Note—

For the making of coordination arrangements, see the Petroleum and Gas (Production and Safety) Act, chapter 2, part 8.

318CR Restriction on carrying out particular authorised activities

- (1) The mining lease holder must not carry out a relevant activity for an adjacent lease or proposed adjacent lease unless—
 - (a) the adjacent lease holder, or the proposed adjacent lease holder, has consented in writing to the carrying out of the activity; or
 - (b) the activity is carried out under—
 - (i) a coordination arrangement mentioned in section 318CQ; or
 - (ii) a decision of the Land Court under section 318CS.
- (2) However, if the adjacent lease was granted after the mining lease was granted and, when the adjacent lease was granted, the mining lease holder was carrying out the relevant activity, subsection (1) does not apply to the mining lease holder until the later of the following—
 - (a) 6 months after granting of the adjacent lease;
 - (b) if within the 6 months the mining lease holder applies to the Land Court under section 318CS—when the Land Court decides the application.

[s 318CS]

- (3) In this section—
- relevant activity**, for an adjacent lease or proposed adjacent lease, means—
- (a) the mining, under the mining lease, of coal seam gas that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or the proposed adjacent lease; or
 - (b) another authorised activity under the mining lease that physically adversely affects, or may physically adversely affect, the carrying out of authorised activities under an adjacent lease or the proposed adjacent lease.

318CS Dispute resolution by Land Court

- (1) This section applies if—
- (a) an adjacent lease holder, or the proposed adjacent lease holder, has not consented in writing to the carrying out of a relevant activity under section 318CR; and
 - (b) the mining lease holder and the adjacent lease holder or proposed adjacent lease holder (the *parties*) have not made a coordination arrangement mentioned in section 318CQ.
- (2) Either party may apply to the Land Court for it to decide—
- (a) the amount or proportion of any of the following that, when mined or produced, is owned by each party—
 - (i) coal seam gas mentioned in section 318CR(1);
 - (ii) petroleum; and
 - (b) how the parties are to bear the costs of the mining or production; and
 - (c) how the mining or production is to be coordinated or monitored; and

Example for paragraph (c)—

fixing a distance from the boundary between the mining lease and the adjacent lease for mining coal seam gas from the reservoir

- (d) remediation requirements, as prescribed under a regulation, in relation to the matters mentioned in section 318CR(3), definition *relevant activity*, paragraph (b).
- (3) If the adjacent lease was granted after the mining lease was granted, the decision may apply from the grant of the adjacent lease.
- (4) In making the decision, the Land Court—
 - (a) must attempt to optimise mining under the mining lease and mining or production under the adjacent lease in a way that maximises the benefit for all Queenslanders; and
 - (b) may make the decision without having regard to the issue of who would, under another Act or law, have otherwise owned the petroleum.
- (5) In considering the benefit to all Queenslanders, the Land Court must have regard to the public interest.

Division 3 Conditions

318CT Continuing requirement for coordination arrangement for particular coal or oil shale mining leases

- (1) This section applies if—
 - (a) a coal mining lease or an oil shale mining lease is granted over land in the area of a petroleum lease and the application for the mining lease was not made by or jointly with the petroleum lease holder; or

[s 318CU]

- (b) a coal mining lease holder or an oil shale mining lease holder is a party to a coordination arrangement mentioned in section 318DO.
- (2) It is a condition of the mining lease that—
 - (a) its holder must continue to be party to a relevant coordination arrangement; and
 - (b) authorised activities for the mining lease must not be carried out if there is no relevant coordination arrangement.
- (3) In this section—

relevant coordination arrangement means a coordination arrangement with the relevant petroleum lease holder about—

 - (a) coal or oil shale mining and any incidental coal seam gas mining under the mining lease; and
 - (b) petroleum production under the petroleum lease.

318CU Obligation to measure and record coal seam gas mined

- (1) It is a condition of each coal or oil shale mining lease that its holder must—
 - (a) use a meter to record the volume of coal seam gas mined in the area of the lease; and

Note—

Noncompliance with the conditions under this section may also be an offence. See the Petroleum and Gas (Production and Safety) Act, sections 15 (When petroleum is *produced*) and 801 (Petroleum producer's measurement obligations).

 - (b) comply with the provisions of the Petroleum and Gas (Production and Safety) Act, chapter 8, parts 1 and 2, to the extent the provisions are relevant to the meter and its use; and
 - (c) ensure—

-
- (i) each designated CSG product mined is measured by a meter, in accordance with the relevant measurement scheme under the Petroleum and Gas (Production and Safety) Act for the meter; and

Note—

See the Petroleum and Gas (Production and Safety) Act, section 631 (What is a *meter*) and chapter 8, part 2 (Measurement schemes).

- (ii) the meter complies with any requirements under the Petroleum and Gas (Production and Safety) Act; and
- (iii) the measurement is made at the times and in the way required under the Petroleum and Gas (Production and Safety) Act; and
- (iv) the measurement measures—
 - (A) each designated CSG product separately to each other type of product mentioned in the Petroleum and Gas (Production and Safety) Act, section 801(2); and
 - (B) the percentage of methane in each designated CSG product measured.

- (2) In this section—

meter means a meter as defined under the Petroleum and Gas (Production and Safety) Act, section 631.

318CV Obligation to lodge annual reports

- (1) It is a condition of each coal or oil shale mining lease that its holder must, within 2 months after each of its anniversary days, lodge a report that—
 - (a) states details of each of the following for the 12 months that ended on its last anniversary day—
 - (i) the amount and location of coal seam gas mined;

[s 318CV]

- (ii) the amount of each designated CSG product mined;
 - (iii) the percentage of methane in each designated CSG product mined;
 - (iv) the amount and location of each other mineral mined;
 - (v) for each mineral mentioned in subparagraphs (i) and (ii)—
 - (A) the amount sold; and
 - (B) the amount disposed of other than by sale; and
 - (C) each method of disposal other than sale; and
 - (D) the amount disposed of under each other method;
 - (vi) whether there was any subsidence and, if there was any, its nature; and
- (b) if the report states there was subsidence, includes a plan showing its extent; and
 - (c) includes a plan of the mine working envelope for the mining lease; and
 - (d) details the coal seam gas mined or proposed to be mined within the mine working envelope; and
 - (e) includes other information prescribed under a regulation.
- (2) If the mining lease ends, its former holder must lodge a report for the period from the last anniversary day for the lease to when it ended that gives the information mentioned in subsection (1).

Maximum penalty—150 penalty units.

- (3) In this section—

anniversary day, for a mining lease, means each day that is the anniversary of the day on which the term of the mining lease started.

mine working envelope means land that covers any of the following or is needed for post-production activities—

- (a) past mine workings;
- (b) current mine workings;
- (c) mine workings scheduled to be mined within the next 5 years;
- (d) authorised activities for the mining lease associated with the processing, transportation, storage and use of the coal seam gas produced.

318CW Compliance with obligation to negotiate with petroleum lease applicant

If the obligation under the Petroleum and Gas (Production and Safety) Act, section 349, applies to a coal mining lease holder or an oil shale mining lease holder, it is a condition of the mining lease that the holder must comply with the obligation.

318CX Relinquishment report

- (1) This section applies if under a relinquishment condition, a coal mining lease holder or an oil shale mining lease holder relinquishes part of the area of the lease.
- (2) The notice making the relinquishment must be accompanied by a report—
 - (a) describing—
 - (i) the authorised activities for the mining lease carried out in the part; and
 - (ii) the results of the activities; and
 - (b) giving other information prescribed under a regulation.

Maximum penalty—150 penalty units.

[s 318CY]

- (3) The mining lease holder must give a copy of the report to—
- (a) the relevant authority to prospect holder; and
 - (b) anyone who has a current application for a petroleum lease for the part.

Maximum penalty—150 penalty units.

318CY Surrender report

If a coal mining lease holder or an oil shale mining lease holder makes a surrender application mentioned in section 318EG, it is a condition of the mining lease that the application is accompanied by a report—

- (a) describing—
 - (i) the authorised activities for the lease carried out on the land to which the notice relates; and
 - (ii) the results of the activities; and
- (b) giving other information prescribed under a regulation.

Maximum penalty—150 penalty units.

318CZ Cessation of relinquishment condition for area not overlapping with area of authority to prospect

If—

- (a) a coal mining lease or an oil shale mining lease contains a relinquishment condition; and
 - (b) all or part of the area of the mining lease ceases to be in the area of an authority to prospect (the *relevant land*);
- the condition ceases to apply for the relevant land.

Division 4 Amendment of relinquishment condition by application

318D Application of div 4

This division applies if a coal mining lease or an oil shale mining lease contains a relinquishment condition and all or part of the area of the mining lease is in the area of an authority to prospect.

318DA Conditions for applying to amend relinquishment condition

- (1) The mining lease holder may apply for the amendment of the condition only if the applicant has, before making the application—
 - (a) made reasonable attempts to consult with the authority to prospect holder about—
 - (i) the proposed amendment; and
 - (ii) a proposed later development plan for the lease; and
 - (b) changed the proposed amendment and the proposed development plan to give effect to any reasonable proposal by the authority holder that will optimise—
 - (i) coal or oil shale or incidental coal seam gas mining under the amended mining lease; and
 - (ii) petroleum production under any future petroleum lease over the land.
- (2) However, subsection (1)(b) applies only to the extent the proposal is commercially and technically feasible for the applicant.

[s 318DB]

318DB Authority to prospect holder's obligation to negotiate

The authority to prospect holder must, if asked by the mining lease holder, use reasonable attempts to reach an agreement with the mining lease holder, about the matters mentioned in section 318DA(1)(b), that provides the best resource use outcome without significantly affecting the parties' rights or interests.

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

318DC Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) state whether or not the development plan for the mining lease has been complied with; and
- (c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and
- (d) include a CSG statement; and
- (e) include a proposed later development plan for the lease as amended under section 318DA; and
- (f) include a statement about each of the following—
 - (i) the details of the consultation carried out under section 318DA(1)(a);
 - (ii) the results of the consultation;
 - (iii) whether the proposed development plan includes all provisions proposed by the authority to prospect holder under section 318DA(1)(b);
 - (iv) if the proposed development plan does not include a provision proposed by the authority holder—why it was not included;

- (v) the applicant's assessment of the potential for the applicant and the authority holder to make a coordination arrangement about—
 - (A) coal or oil shale or incidental coal seam gas mining under the amended mining lease; and
 - (B) petroleum production under any future petroleum lease over the land that may be granted to the authority holder; and
- (g) be accompanied by the fee prescribed under a regulation.

318DD Notice of application

The applicant must immediately after making the application give the authority to prospect holder a copy of the application.

318DE Submissions by authority to prospect holder

- (1) The authority to prospect holder may lodge submissions about the application.

Editor's note—

See also part 10 (Confidentiality of information).

- (2) However, the submissions may be lodged only within 20 business days after the holder is, under section 318DD, given a copy of the application.
- (3) The submissions may include any of the following—
 - (a) information about all or any of the following—
 - (i) exploration carried out under the authority to prospect;
 - (ii) the results of the exploration;
 - (iii) the prospects for future petroleum production from the land;

[s 318DF]

- (b) a proposal by the authority holder for petroleum production from the land;
- (c) information relevant to the CSG assessment criteria.

Note—

For confidentiality obligations of tenure holders or persons who have applied for a tenure, see part 10.

- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the application, regard must be had to the submissions.

318DF Minister may require further negotiation

- (1) The Minister may, by written notice, require the applicant to conduct negotiations with the authority to prospect holder with a view to making changes of a type mentioned in section 318DA(1)(b).
- (2) The applicant must use all reasonable attempts to comply with the requirement.
- (3) If the Minister is reasonably satisfied the applicant has not complied with the requirement the Minister may decide to refuse the application.

318DG Deciding amendment application

- (1) Before deciding to grant the application, the Minister must decide whether to approve the applicant's proposed later development plan for the mining lease.
- (2) The application can not be granted unless the proposed plan has been approved.
- (3) Part 9, division 4 applies for deciding whether to approve the proposed development plan.
- (4) The matters that must be considered in deciding the application include each of the following—
 - (a) the CSG assessment criteria;

- (b) whether the applicant has taken all reasonable steps to comply with the relinquishment condition;
 - (c) the effect of any approval of later development plans for the lease;
 - (d) any submissions under section 318DE lodged within the period mentioned in section 318DE(2).
- (5) After the application has been decided, the applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.

Division 5 Restriction on amending other conditions

318DH Interests of relevant petroleum tenure holder to be considered

An amendment under section 294 of a condition of a coal mining lease or an oil shale mining lease must not be made unless the interests of any relevant petroleum tenure holder have been considered.

Division 6 Renewals

318DI General additional provisions for renewal application

- (1) This section and section 318DJ contain additional provisions for an application to renew a coal mining lease or an oil shale mining lease.

Note—

For particular requirements for an application to renew a mining lease, see section 286.

- (2) The application must—
- (a) state whether the current development plan for the lease has been complied with; and

[s 318DJ]

- (b) if the development plan has not been complied with—state the details of, and the reasons for, each noncompliance; and
- (c) include a proposed later development plan for the renewed lease, that complies with the later development plan requirements.

Editor's note—

See section 318ED (Later development plan requirements).

- (3) The application can not be made after the lease has ended.
- (4) If the application is made less than 6 months before the end of the term of the lease, the application must be accompanied by an amount that is 10 times the renewal fee prescribed under section 286(2)(b).

318DJ Applied provisions for renewal application

- (1) The adopted provisions apply for any renewal application for a coal mining lease or an oil shale mining lease—
 - (a) as if the mining lease holder had lodged a proposed later development plan; and
 - (b) as if a reference in the adopted provisions—
 - (i) to the application were a reference to the renewal application; and
 - (ii) to a mining lease were a reference to a renewed mining lease; and
 - (iii) to a proposed development plan were a reference to a proposed later development plan; and
 - (c) with other necessary changes.
- (2) In this section—

adopted provisions means—

 - (a) sections 318DZ and 318E; and
 - (b) part 9, division 4; and

- (c) if all or part of the area of the mining lease is in the area of an authority to prospect and the applicant does not hold the authority to prospect—part 2, divisions 2 and 4; and
- (d) if all or part of the area of the mining lease is in the area of an authority to prospect and the applicant holds the authority to prospect—part 3, other than sections 318BQ and 318BR; and
- (e) if all or part of the land in the area of the mining lease is in the area of a petroleum lease and the mining lease holder is not a holder of the petroleum lease—part 5, other than section 318BY.

318DK Mining lease taken to have development plan until renewal application decided

- (1) This section applies until the happening of the following event if an application to renew a coal mining lease or an oil shale mining lease is made and the application complies with this part—
 - (a) if it is decided to renew the lease—the lease holder is given notice of the renewal;
 - (b) if it is decided not to renew the lease—the decision not to renew takes effect.

Note—

For when the decision takes effect, see section 318EH, as applied under section 318DJ.

- (2) Despite the ending of the plan period for the current development plan for the lease—
 - (a) the mining lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the lease.

Division 7 Consolidations

318DL Restriction on consolidation applications

A coal mining lease holder or an oil shale mining lease holder can not apply to consolidate the lease with another type of mining lease.

318DM Additional requirements for making consolidation application

- (1) This section applies if an application under section 299 is made to consolidate coal mining leases or oil shale mining leases.
- (2) The application must—
 - (a) include a proposed development plan for the consolidated mining lease; and
 - (b) be accompanied by the fee prescribed under a regulation.
- (3) The proposed plan must comply with the later development plan requirements.

Note—

For requirements for proposed initial development plans, see part 9, division 2.

- (4) The fee prescribed under section 299 need not accompany the application.

318DN Deciding whether to approve proposed development plan

Sections 318EF to 318EH apply to a proposed development plan included in an application under section 299—

- (a) as if the proposed plan were a proposed later development plan lodged under section 318EB; and

- (b) as if a reference in the sections to the approval of a proposed later development plan were a reference to the proposed development plan for the consolidated lease; and
- (c) with other necessary changes.

Division 8 Restriction on transfer or subletting

318DO Requirement for coordination arrangement to transfer or sublet mining lease in area of petroleum lease

- (1) This section applies if land in the area of a coal mining lease or an oil shale mining lease is also in the area of a petroleum lease.
- (2) The chief executive must not, under section 318AAT, register a transfer or sublease of the mining lease unless the proposed transferee or sublessee and the petroleum lease holder are parties to a coordination arrangement about—
 - (a) coal or oil shale mining and any incidental coal seam gas under the mining lease; and
 - (b) petroleum production under the petroleum lease.

Note—

For matters about coordination arrangements, see the Petroleum and Gas (Production and Safety) Act, chapter 2, part 8.

[s 318DP]

Part 9 **Development plans for coal mining leases and oil shale mining leases**

Division 1 **General provisions about development plans**

318DP Function and purpose

- (1) The development plan for a coal mining lease or an oil shale mining lease, or a proposed coal mining lease or an oil shale mining lease, (the *relevant lease*) gives detailed information about the nature and extent of activities to be carried out under the lease.
- (2) The development plan may—
 - (a) also relate to another coal or oil shale mining lease or proposed coal or oil shale mining lease if the other lease or proposed lease relates to the relevant lease; and
 - (b) provide that when the plan is approved it will replace any development plan for the other lease.
- (3) The purposes of giving the information is to—
 - (a) allow resource management decisions to be made; and
 - (b) ensure appropriate development of minerals that, under section 234, are specified in the lease.

318DQ Requirement to have development plan

It is a condition of each coal or oil shale mining lease that its holder must ensure there is a development plan for the lease.

Note—

The only ‘development plan’ for a coal or oil shale mining lease is its current initial or later development plan, as approved under this part.

See the definition of that term in the dictionary. For the requirement to lodge a proposed later development plan and its approval, see division 4.

318DR Obligation to comply with development plan

It is a condition of each coal or oil shale mining lease that its holder must comply with the development plan for the lease.

Note—

See, however, chapter 15, part 2, division 6.

Division 2 Requirements for proposed initial development plans

318DS Operation of div 2

This division provides for requirements (the *initial development plan requirements*) for a proposed initial development plan for a proposed coal or oil shale mining lease.

Note—

For additional requirements for proposed later development plans, see section 318ED.

318DT General requirements

- (1) The proposed plan must provide for each of the following—
 - (a) an overview of the activities proposed to be carried out under the proposed mining lease during all of its proposed term;
 - (b) for each year of the plan period—
 - (i) the nature and extent of activities proposed to be carried out under the proposed mining lease during the year; and
 - (ii) where the activities are proposed to be carried out;

[s 318DT]

- (c) for each mineral the applicant proposes to mine under the proposed mining lease, each of the following—
 - (i) the location and an estimate of the resources of the mineral in all of the area, or proposed area, of the proposed mining lease;
 - (ii) the standards and procedures used to make the estimate;
 - (iii) the rate and amount of the proposed mining;
 - (iv) approximately when the proposed mining is to start;
 - (v) a schedule for the proposed mining during the plan period;
 - (d) maps that show the matters mentioned in paragraphs (b) and (c)(i), (iii) and (iv);
 - (e) any other information relevant to the criteria mentioned in section 318EF;
 - (f) reasons why the plan is considered appropriate;
 - (g) another matter prescribed under a regulation.
- (2) A regulation may impose requirements about the form of the development plan.
- (3) In this section—
- year**, of the plan period, means—
- (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and
 - (b) each subsequent period of 12 months or less during the plan period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

318DU Plan period

- (1) The proposed plan must state its period.
- (2) The period must not be longer than—
 - (a) if the term sought for the mining lease is less than 5 years from the granting of the mining lease—the term of the mining lease; or
 - (b) if the term sought for the mining lease is 5 years or more—5 years from the start of the term.

318DV Statement about interests of relevant petroleum tenure holder

The proposed plan must include a statement of how the effects on, and the interests of, any relevant overlapping or adjacent petroleum tenure holder have, or have not, been considered, having regard to—

- (a) the main purposes of this chapter; and
- (b) the CSG assessment criteria, other than the initial development plan requirements.

318DW Requirement to optimise use of incidental coal seam gas

The activities provided for under the proposed plan must seek to optimise the use of incidental coal seam gas in a safe and efficient way if it is commercially and technically feasible to do so.

318DX Consistency with petroleum lease development plan and relevant coordination arrangement

If all or part of the land in the area of the proposed mining lease is in the area of a petroleum lease (the *relevant land*), the proposed plan must, to the extent it applies to the relevant land, be consistent with—

- (a) the development plan for the petroleum lease; and

[s 318DY]

- (b) any coordination arrangement relating to the relevant land.

Division 3 Approval of proposed initial development plans

318DY Application of div 3

This division applies to all coal mining lease and oil shale mining lease applications.

318DZ Ministerial approval of proposed plan

- (1) The Minister must decide whether to approve the applicant's proposed development plan for the proposed mining lease.
- (2) If the proposed plan is not approved the application must be rejected.

318E Amendment of proposed plan before approval

- (1) The applicant may, by lodged notice, amend the proposed development plan at any time before the Minister decides whether to approve the applicant's proposed development plan.
- (2) The notice must be accompanied by the amended proposed plan.

318EA Deciding whether to approve proposed plan

- (1) The Minister may approve or refuse to approve the proposed development plan.
- (2) The matters that must be considered in deciding whether to approve the proposed plan include each of the following—
 - (a) the potential of the area of the proposed mining lease for each of the following (the *activities*)—

- (i) mining;
- (ii) each other purpose for which the lease is sought;
- (b) the nature and extent of the activities;
- (c) when and where the activities are proposed to be carried out;
- (d) whether the mining of minerals that, under section 234, are sought to be specified in the lease will be optimised in the best interests of the State, having regard to the public interest;
- (e) the CSG assessment criteria.

Division 4 Approval of proposed later development plans

318EB Obligation to lodge proposed later development plan

- (1) It is a condition of each coal or oil shale mining lease that its holder must lodge a proposed later development plan for the mining lease as provided for under this section.

Note—

If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 318DI(2)(c).

- (2) The condition is complied with only if the proposed later development plan—
 - (a) is lodged; and
 - (b) complies with the later development plan requirements; and
 - (c) is accompanied by the relevant fee.
- (3) A proposed later development plan must be lodged—

[s 318EB]

- (a) at least 40, but no more than 100, business days before the end of the plan period for its current development plan (the *current plan period*); or
 - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease; or
 - (c) within 20 business days after a coordination arrangement relating to the lease ends.
- (4) However, if before the end of the current plan period, a decision is made not to approve a proposed later development plan lodged under subsection (3), the holder may, within the period, lodge another proposed later development plan.
- (5) If the holder does not lodge any proposed later development plan before the end of the current plan period or if subsection (4) applies and the holder does not lodge another proposed later development plan within the current plan period—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 40 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee*, for the lodgement of the proposed plan, means—
- (a) if the proposed plan is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the time required under subsection (3)—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4)—an amount that is 10 times the prescribed fee.

318EC Consequence of failure to comply with notice to lodge proposed later development plan

- (1) If a coal or oil shale mining lease holder does not comply with a requirement under section 318EB(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

318ED Later development plan requirements

- (1) A proposed later development plan must—
 - (a) comply with the initial development plan requirements, as if the reference in section 318DU(2) to the term sought for the mining lease were a reference to the remaining term, or the renewed term, of the lease; and

Note—

For requirements for proposed initial development plans, see division 2.

 - (b) highlight any significant changes from the current development plan for the mining lease; and
 - (c) state whether the current development plan has been complied with; and
 - (d) if the current development plan has not been complied with—state the details of, and the reasons for, each noncompliance.
- (2) For subsection (1), section 318DU applies as if a reference to the term sought for the mining lease is a reference to the term of the mining lease.
- (3) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan, the proposed plan must also state reasons for the change.

[s 318EE]

- (4) The requirements under subsection (1), as applied under subsection (2), and subsection (3) are the *later development plan requirements*.

318EE Mining lease taken to have development plan until decision on whether to approve proposed later development plan

- (1) This section applies until the happening of the following event if, under section 318EB, the holder lodges a proposed later development plan before the end of the plan period for the current development plan for the mining lease—
- (a) if the proposed plan is approved—the holder is given notice of the approval;
 - (b) if approval of the proposed program is refused—when the refusal takes effect.

Note—

For when the decision takes effect, see section 318EH.

- (2) Despite the ending of the plan period for the current development plan—
- (a) the mining lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the lease.

318EF Criteria for deciding whether to approve proposed plan

The matters that must be considered in deciding whether to approve the proposed later development plan include each of the following—

- (a) the criteria under section 318EA for deciding whether to approve a proposed initial development plan;
- (b) the extent to which the current development plan for the mining lease has been complied with;

- (c) the CSG assessment criteria;
- (d) the effect of any approval of the proposed plan on any relinquishment condition for the mining lease;
- (e) if the proposed plan provides for a significant change that is a cessation or reduction of mining or other purposes for which the mining lease is granted—
 - (i) whether the cessation or reduction is reasonable; and
 - (ii) whether the mining lease holder has taken all reasonable steps to prevent the cessation or reduction.

318EG Power to require partial surrender application

- (1) This section applies if the proposed plan provides for a significant change that is a cessation or reduction of mining or other purposes for which the mining lease is granted.
- (2) The Minister may approve the proposed plan, but—
 - (a) decide (a *deferral decision*)—
 - (i) to defer the taking of effect of the approval until the mining lease holder applies under section 309 to surrender a stated part or percentage of the area of the lease on or before a stated day; and
 - (ii) that the decision to approve the proposed plan is replaced by a decision not to approve it if the surrender application is not made on or before the stated day; or
 - (b) impose a condition on the mining lease requiring its holder to apply under section 309 to surrender a stated part or percentage of the area of the lease at stated times or intervals.
- (3) The public interest must be considered before making a deferral decision or imposing the condition.

[s 318EH]

318EH Steps after, and taking effect of, decision

- (1) On approval of the proposed later development plan, the chief executive must give the holder notice of the approval.
- (2) For the following, the notice must be an information notice—
 - (a) a decision to refuse to approve the proposed plan;
 - (b) an approval of the proposed plan that, under section 318EG, is deferred;
 - (c) a decision under section 318EG(2)(b).
- (3) An approval without any deferral under section 318EG(2)(a) takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- (4) A refusal does not take effect until the end the appeal period under section 318EI.
- (5) In this section—

information notice means a notice stating—

 - (a) the reasons for the decision; and
 - (b) that the holder may appeal against the decision; and
 - (c) how to appeal.

Division 5 Appeals

318EI Right of appeal against cancellation, deferral or refusal

- (1) This section applies if—
 - (a) under section 318DZ, it is decided not to approve a proposed development plan; or
 - (b) under section 318EC, it is decided to cancel the mining lease; or
 - (c) it is decided not to approve the proposed later development plan; or

-
- (d) under section 318EG, it is decided to defer an approval of the later development plan.
 - (2) The Petroleum and Gas (Production and Safety) Act, chapter 12, part 2, applies, with necessary changes, as if—
 - (a) the decision were mentioned in schedule 1, table 2 of that Act; and
 - (b) the schedule stated the Land Court as the appeal body for the decision; and
 - (c) a reference in that part to an information notice were a reference to a notice under section 318EH.

Part 10 Confidentiality of information

318EJ Application of pt 10

- (1) This part applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
 - (a) that this chapter requires the information-giver to give the recipient, including, for example, information given to comply with section 318AW(a); or
 - (b) for the purposes of this chapter.
- (2) However, this part applies subject to any agreement between the information-giver and the recipient about the information or its use.
- (3) In this section—

information means information given verbally or in writing.

tenure means a coal or oil shale mining tenement or a petroleum tenure.

[s 318EK]

318EK Confidentiality obligations

- (1) The recipient must not disclose the information to anyone else, unless—
 - (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) to someone else whom the recipient has authorised to carry out the authorised activities for the recipient's coal or oil shale mining tenement or petroleum tenure; or
 - (ii) made with the information-giver's consent; or
 - (iii) expressly permitted or required under this or another Act; or
 - (iv) to the Minister.
- (2) The recipient may use the information only for the purpose for which it is given.

318EL Civil remedies

If the recipient does not comply with section 318EK, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

Chapter 9 Provisions for geothermal tenures and GHG authorities

Part 1 Preliminary

318ELAM Relationship with chs 2 to 8 and ch 12, pt 1

- (1) Requirements and restrictions under this chapter apply as well as any relevant requirements and restrictions under chapters 2 to 8 and chapter 12, part 1.
- (2) If this chapter imposes a requirement for or a restriction on the granting of a mining lease, the mining lease can not be granted if the restriction applies or if the requirement has not been complied with.
- (3) If a provision of this chapter conflicts with a provision of any of chapters 2 to 8 and chapter 12, part 1 the provision of this chapter prevails to the extent of the inconsistency.
- (4) This chapter does not otherwise limit or affect the requirements of chapters 2 to 8 and chapter 12, part 1.
- (5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a mining tenement.
- (6) Despite chapters 2 and 6, the activity is not an authorised activity for the mining tenement while the restriction applies or if the requirement has not been complied with.

318ELAN What is an *overlapping authority (geothermal or GHG)*

- (1) An *overlapping authority (geothermal or GHG)*, for a mining tenement, is any geothermal tenure or GHG authority all or part of the area of which is in the mining tenement's area.

[s 318ELAO]

- (2) An *overlapping authority (geothermal or GHG)*, for a proposed mining tenement, is any geothermal tenure or GHG authority all or part of the area of which will, if the proposed mining tenement is granted, be in the mining tenement's area.

318ELAO General provision about mining tenements for land subject to geothermal tenure or GHG authority

Subject to the other provisions of this chapter, chapters 2 to 8 and chapter 12, part 1, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a mining tenement over land in the area of an overlapping authority (geothermal or GHG) for the proposed mining tenement; or
- (b) the carrying out of authorised activities for a mining tenement.

Part 2 Obtaining mining lease if overlapping tenure

Division 1 Preliminary

318ELAP Application of pt 2

This part applies if—

- (a) a person (the *applicant*) wishes to make a mining lease application; and
- (b) there is an overlapping authority (geothermal or GHG) for the proposed mining lease; and

-
- (c) the overlapping authority (geothermal or GHG) is a geothermal tenure or GHG tenure (the *overlapping tenure*).

Division 2 Requirements for application

318ELAQ Requirements for making application

- (1) The mining lease application must include—
- (a) a statement complying with section 318ELAR (an *information statement*); and
 - (b) other information addressing the matters mentioned in subsection (2) (the *assessment criteria*).

Note—

Chapter 8, part 9 also imposes development plan requirements for a proposed coal mining lease or oil shale mining lease.

- (2) The assessment criteria are—
- (a) the potential for the parties to make the following for the proposed mining lease—
 - (i) for a geothermal tenure—a geothermal coordination arrangement;
 - (ii) for a GHG tenure—a GHG coordination arrangement; and
 - (b) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed mining lease and the overlapping tenure; and
 - (c) the public interest.

318ELAR Content requirements for information statement

The information statement must assess—

[s 318ELAS]

- (a) the likely effect of proposed activities under the proposed mining lease on the future carrying out of authorised activities for the overlapping tenure; and
- (b) the technical and commercial feasibility of coordinating the proposed activities and the future carrying out of the authorised activities.

Division 3 Consultation provisions

318ELAS Applicant's information obligation

- (1) The applicant must within 10 business days after making the mining lease application give the overlapping tenure holder a copy of the application.
- (2) If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the mining lease application.

318ELAT Submissions by overlapping tenure holder

- (1) The overlapping tenure holder may lodge submissions about the mining lease application (*holder submissions*).
- (2) However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.
- (3) Holder submissions may do all or any of the following—
 - (a) state that the holder does not object to the granting of the proposed mining lease;
 - (b) if the overlapping tenure is a geothermal permit or GHG permit—
 - (i) state that the holder does not wish any priority for the carrying out of authorised activities for any future lease that may arise from the permit (*overlapping authority priority*); or

- (ii) include a proposal by the overlapping tenure holder for the authorised activities for which overlapping authority priority is sought;
 - (c) include information about authorised activities carried out under the overlapping tenure;
 - (d) include information relevant to the assessment criteria.
- (4) The holder must give the applicant a copy of the holder submissions.

Division 4 Resource management decision if overlapping permit

318ELAU Application of div 4

- (1) This division applies if—
- (a) the overlapping tenure is a geothermal permit or GHG permit (the *overlapping permit*); and
 - (b) the overlapping permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and
 - (c) the submissions state that the holder wishes overlapping authority priority.
- (2) However, this division does not apply if under the Geothermal Act, chapter 5 or the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.

Note—

If this subdivision does not apply, the mining lease application proceeds immediately to a decision under chapter 6, part 1 as affected by division 7.

318ELAV Operation of div 4

This division provides for the Minister to make a decision (the *resource management decision*) about whether—

[s 318ELAW]

- (a) to grant the mining lease under section 271A; or
- (b) to give any overlapping authority priority for all or part of the relevant land; or
- (c) not to grant the mining lease and not to give any overlapping authority priority for all or part of the relevant land.

318ELAW Criteria for decision

The Minister must consider the following in making the resource management decision—

- (a) the information statement;
- (b) the assessment criteria;
- (c) the holder submissions;
- (d) the public interest.

318ELAX Restrictions on giving overlapping authority priority

Overlapping authority priority may be given only if the Minister considers—

- (a) either—
 - (i) it is unlikely the applicant and the overlapping permit holder will enter into—
 - (A) for a geothermal permit—a geothermal coordination arrangement; or
 - (B) for a GHG permit—a GHG coordination arrangement; or
 - (ii) an arrangement mentioned in subparagraph (i) for the proposed mining lease is not commercially or technically feasible; and
- (b) the public interest would be best served by not granting a mining lease to the applicant first.

Division 5 Process if resource management decision is to give overlapping authority priority

318ELAY Application of div 5

This division applies only if, under division 4, a resource management decision is required and the decision is to give overlapping authority priority for all or part of the relevant land.

318ELAZ Notice to applicant and overlapping permit holder

- (1) The chief executive must give the applicant and the overlapping permit holder written notice of the resource management decision.
- (2) The notice must invite the overlapping permit holder to, within 6 months after the giving of the notice (the *overlapping authority application period*), apply for a lease as follows (an *overlapping lease*) for the land mentioned in subsection (3)—
 - (a) if the overlapping permit is a geothermal permit—a geothermal lease;
 - (b) if the overlapping permit is a GHG permit—a GHG lease.
- (3) For subsection (2), the land is—
 - (a) if the overlapping authority priority is for all of the land—for all of the land; or
 - (b) if the priority is for part of the land—for that part.

318ELBA Overlapping lease application for all of the land

- (1) This section applies if—
 - (a) the overlapping authority priority is for all of the land; and

[s 318ELBB]

- (b) within the overlapping authority application period the overlapping permit holder applies for an overlapping lease for all of the land.
- (2) A further step can not be taken to decide the mining lease application until after the overlapping lease application has been decided.

Note—

The Geothermal Act, chapter 5, part 5 and the GHG storage Act, chapter 4, part 5 provide for refusal of the overlapping lease application if it is not pursued in a timely manner.

- (3) If the decision on the overlapping lease application is to grant an overlapping lease for all of the land, the mining lease application is taken to have lapsed.

318ELBB Overlapping lease application for part of the land

- (1) This section applies if the overlapping permit holder applies for an overlapping lease for part of the land within the overlapping authority application period.
- (2) The person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.
- (3) Unless the amendment is made, a further step can not be taken to decide the mining lease application until after the overlapping lease application has been decided.
- (4) If—
 - (a) the amendment has not been made; and
 - (b) the decision on the overlapping lease application is to grant an overlapping lease for part of the land;

the person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.

Note—

If the mining lease application is not amended, see section 318ELBF (Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement).

318ELBC No overlapping lease application

If the overlapping permit holder does not apply for an overlapping lease for any of the land within the overlapping authority application period, the mining lease application may be decided.

Division 6 Resource management decision not to grant and not to give priority

318ELBD Lapsing of application

The mining lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and
- (b) the decision was not to grant the mining lease and not to give any overlapping authority priority for any of the relevant land.

Division 7 Deciding application

318ELBE Application of div 7

This division applies only if—

- (a) the overlapping tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or

[s 318ELBF]

- (b) the overlapping tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or
- (c) under division 4, a resource management decision is required and—
 - (i) the resource management decision is not to give overlapping authority priority for any of the relevant land; or
 - (ii) the resource management decision is to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a mining lease for the land.

318ELBF Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement

- (1) This section applies if—
 - (a) the Minister is satisfied the applicant and the overlapping tenure holder have made reasonable attempts to reach the following (a *relevant arrangement*)—
 - (i) if the overlapping tenure is a geothermal permit—a proposed geothermal coordination arrangement;
 - (ii) if the overlapping tenure is a GHG permit—a proposed GHG coordination arrangement; and
 - (b) either—
 - (i) the overlapping tenure holder has lodged a written notice stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the overlapping tenure

holder have had a reasonable opportunity to make a relevant arrangement.

- (2) The Minister may decide to refuse the application.

318ELBG Additional criteria for deciding provisions of mining lease

- (1) In making a decision as follows, regard must be had to the prescribed criteria—
- (a) deciding conditions of the mining lease under section 276(1)(m);
 - (b) deciding the term of the lease under section 284.
- (2) In this section—

prescribed criteria means all of the following—

- (a) the information statement;
- (b) the assessment criteria;
- (c) any holder submissions;
- (d) the effect of the mining lease on the safe and efficient carrying out of authorised activities for the overlapping tenure;
- (e) for an overlapping permit—the effect of the mining lease on the safe and efficient carrying out of authorised activities for any future lease that may arise from the permit.

318ELBH Publication of outcome of application

- (1) After the Minister decides whether or not to grant the mining lease, the chief executive must publish a notice about the outcome of the mining lease application in or on at least 1 of the following—
- (a) the gazette;
 - (b) the department's website;

[s 318ELBI]

- (c) another publication the chief executive considers appropriate.
- (2) The notice must state—
 - (a) the decision; and
 - (b) if the decision was to grant the mining lease—all conditions decided by the Minister; and
 - (c) if, under division 4, a resource management decision is required and the decision is to give overlapping authority priority for all or part of the land—the decision and the reasons for it.
- (3) However, if the chief executive considers information in a condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about its intent.

Part 3 **Priority to particular geothermal or GHG lease applications**

318ELBI Earlier geothermal or GHG lease application

If—

- (a) a mining lease application is made; and
- (b) before the making of that application, an application (the *other application*) was made for a geothermal lease or GHG lease (the *other proposed lease*) but not decided; and
- (c) the other application had not been decided before the making of the mining lease application; and

- (d) the other proposed lease would, if it were granted, be an overlapping authority (geothermal or GHG) for the proposed mining lease;

the mining lease application must not be decided until the other application has been decided.

318ELBJ Proposed geothermal or GHG lease for which EIS approval given

- (1) This section applies for a mining lease application if—
- (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and
 - (b) the EIS is for a project that is, or includes, a proposed geothermal lease or GHG lease (the *proposed lease*) for land the subject of the application.
- (2) The application must not be decided until—
- (a) if no application is made for the proposed lease within 1 year after the granting of the approval—the end of that year; or
 - (b) if an application is made for the proposed lease within that year—that application is decided.

318ELBK Proposed GHG lease declared a coordinated project

- (1) This section applies for a mining lease application if—
- (a) before the making of the mining lease application a coordinated project was declared; and
 - (b) the project is, or includes, a proposed geothermal lease or GHG lease (the *proposed lease*) for land applied for in the application.
- (2) The application must not be decided until—

Part 5 Additional provisions for particular mining tenements

Division 1 Restrictions on authorised activities for particular mining tenements

318ELBN Prospecting permit overlapping with geothermal or GHG lease

- (1) This section applies if—
 - (a) land in the area of a prospecting permit is in the area of a geothermal lease or GHG lease; and
 - (b) the prospecting permit and the geothermal lease or GHG lease are not held by the same person.
- (2) An authorised activity for the prospecting permit may be carried out on the land only if—
 - (a) the geothermal lease or 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, under section 318ELBP, decided the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 318ELBS.

- (3) The objection must be written and given to the prospecting permit holder and lodged.

318ELBO Other overlapping authorities

- (1) This section applies if land is in the area of a mining tenement and a geothermal tenure or GHG authority and section 318ELBN does not apply.

[s 318ELBP]

- (2) An authorised activity for the mining tenement can not be carried out on the land if—
 - (a) carrying out the activity adversely affects the carrying out of an authorised activity for the geothermal tenure or GHG authority; and
 - (b) the authorised activity for the geothermal tenure or GHG authority has already started.

318ELBP Resolving disputes

- (1) This section applies if, under section 318ELBN, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by a prospecting permit holder.
- (2) This section also applies if—
 - (a) section 318ELBO applies to a mining tenement holder and a geothermal tenure or GHG authority holder; and
 - (b) there is a dispute between the holders about whether an authorised activity for the mining tenement 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 318ELBN—whether the authorised activity may be carried out under that section; or
 - (b) for section 318ELBO—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 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 authority to prospect holder and the geothermal lease or GHG lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the mining tenement holder and the geothermal tenure or GHG authority holder.

Division 2 Provisions about conditions

318ELBQ Notice by particular mining tenement holders to particular geothermal tenure or GHG authority holders or applicants

- (1) This section applies if—
- (a) a mining tenement as follows is granted—
 - (i) a mining claim;
 - (ii) a mineral development licence;
 - (iii) an exploration permit; and
 - (b) land in the mining tenement’s area is in the area of, or in a proposed area under an application for, a geothermal tenure or GHG authority other than a geothermal lease or GHG lease.
- (2) It is a condition of the mining tenement that its holder must within 20 business days after the holder receives notice of the grant of the tenement give the geothermal tenure or GHG authority holder or the applicant a written notice stating—
- (a) the mining tenement has been granted; and

[s 318ELBR]

- (b) the mining tenement holder's name; and
- (c) the term of the mining tenement.

318ELBR Restriction on varying conditions of particular mining leases

If there is an overlapping authority (geothermal or GHG) for a mining lease, a condition of the mining lease must not be varied under section 294 unless the interests of the authority holder have been considered.

318ELBS Condition to notify particular authority holders of proposed start of designated activities

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

(6) In this section—

designated activity means any authorised activity for the mining tenement, other than—

- (a) an authorised activity for the mining tenement that is the same as or similar to an incidental activity under the Petroleum and Gas (Production and Safety) Act, section 33 or 112; or
- (b) an activity only involving selecting places where other authorised activities for the mining tenement may be carried out.

318ELBT Requirement to continue geothermal or GHG coordination arrangement after renewal of or dealing with mining lease

(1) This section applies if—

- (a) a mining lease has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the *other lease*); and
- (b) a geothermal coordination arrangement or GHG coordination arrangement applies to the mining lease; and
- (c) a renewal, transfer, consolidation or subletting takes place for the mining lease.

(2) It is a condition of the mining lease that its holder must continue to be a party to a GHG coordination arrangement for the mining lease while the other lease continues in force.

Chapter 10 Roads

Part 1 Preliminary

318EM Coordinated projects excluded from ch 10

- (1) This chapter does not apply for a mining lease that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a coordinated project.
- (2) Subsection (1) does not limit or otherwise affect Coordinator-General's conditions included in the mining lease, under the *State Development and Public Works Organisation Act 1971*, part 4, division 5.

318EN What is the *road authority* for a road

The *road authority*, for a road, is—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another road—the local government having the control of the road.

318EO What is a *notifiable road use*

- (1) A *notifiable road use*, for a mining tenement, is the use of a road to haul loads at more than the following rate if the haulage relates to the transport of minerals mined in the area of the mining tenement—
 - (a) for a State-controlled road—50000t a year;
 - (b) for another road—10000t a year.
- (2) For subsection (1), a mineral is produced only if it is—
 - (a) mined, or released by mining, on the land; or

-
- (b) processed on the land, including, for example, by a process in a refinery or smelter on the land under which a mineral is changed to another substance.
- (3) Subsection (1) applies even if the road is not in the area of the mining tenement.

Note—

See, however, section 736.

Part 2 Notifiable road uses

318EP Notice of notifiable road use

- (1) It is a condition of each mining tenement that its holder must not use a road for a notifiable road use unless the holder has given the road authority for the road written notice that the holder proposes to carry out the use.

Note—

See also section 318EX.

- (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 authority in writing; and
- (b) state each of the following—
- (i) the road proposed to be used;
- (ii) the type of haulage under the use;

Examples of type of haulage—

- vehicle type
- mineral hauled
- frequency of vehicle movements

[s 318EQ]

- (iii) the yearly or other rate at which the haulage is proposed to be carried out;
- (iv) when the use is proposed to start and end;
- (v) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

318EQ Directions about notifiable road use

- (1) The road authority for a road may, by written notice, give a mining tenement 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) A road use 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, a statement—
 - (i) of reasons for giving the direction; and
 - (ii) that, under section 406, the holder may apply to the Land Court to review the direction; and
 - (iii) about how to apply for the review.

Examples of what a road use direction may be about—

 - 1 when the road may be used
 - 2 the route for the movement of heavy vehicles
 - 3 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 road authority in carrying out the assessment.
- (4) However, the 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, or a similar document under another Act.

318ER Obligation to comply with road use directions

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

Part 3 Compensation for notifiable road uses

318ES Liability to compensate road authority

- (1) The holder of each mining tenement is liable to compensate the road authority for a 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)—

- 1 repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
- 2 capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses
- 3 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

[s 318ET]

- (2) The holder's liability under subsection (1) is called the holder's ***compensation liability*** to the authority.
- (3) The compensation liability—
 - (a) applies whether or not the holder has, under section 318EP, given notice of the use; and
 - (b) is subject to section 318EY; 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 authority or anyone else.

318ET Compensation agreement

- (1) A mining tenement holder and the road authority for a road may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the authority relating to the road.
- (2) A compensation agreement may relate to the whole or part of the liability.
- (3) A compensation agreement must—
 - (a) be signed by or for the holder and the authority; and
 - (b) state whether it is for the whole 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—
 - (a) extend the holder's compensation liability to the authority relating to the road to any renewal of the mining tenement; and
 - (b) provide for—

- (i) monetary or non-monetary compensation; or
- (ii) a process by which it may be amended or enforced.

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the mining tenement, 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.

318EU Deciding compensation through Land Court

- (1) The road authority for a road or a mining tenement holder may apply to the Land Court for it to decide the holder's compensation liability to the 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.

318EV 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 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, met from—
 - (i) amounts the mining tenement holder has paid, or agreed to pay, the authority for notifiable road uses; or

[s 318EW]

- (ii) rates and charges under the *Local Government Act 2009* paid or payable from the mining tenement holder to the 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 mining tenement holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

318EW Land Court review of compensation

- (1) This section applies if—
 - (a) compensation 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 relevant road authority or mining tenement holder may apply to the Land Court for it to review the original compensation.
- (3) Sections 318EU and 318EV apply, with necessary changes, for the review as if the application were a compensation application.
- (4) The Land Court may, after conducting 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 318EV(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.

318EX Compensation to be addressed before carrying out notifiable road use

- (1) It is a condition of each mining tenement that the holder of the tenement must not carry out a notifiable road use on a road unless—
- (a) the holder and the relevant road authority have signed a compensation agreement for the use; or
 - (b) the 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 authority relating to the road.
- (2) A consent under subsection (1)(b) may be given for any renewal of the mining tenement.

318EY Compensation not affected by change in administration or holder

- (1) An agreement or decision under this chapter about compensation liability is binding on—

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- (a) the relevant road authority and mining tenement holder;
and
 - (b) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 318EW.

Chapter 11 Royalties

Part 1 Payment of royalty

320 Royalty return and payment

- (1) The holder of a mining claim, mining lease or other authority under this Act or any other Act relating to mining who mines or allows to be mined mineral, whether or not the Crown has the property in the mineral, from the area of that mining claim, mining lease or other authority shall pay royalty as prescribed at the rate for the time being prescribed in respect of that mineral.
- (2) Subsection (1) does not apply in respect of—
 - (a) coal, that is not the property of the Crown, mined under the authority of a mining lease granted or renewed or deemed to be granted or renewed under this Act for as long as there subsists an agreement made prior to the commencement of the *Mining Act Amendment Act 1976* with the owner of the coal or the owner's predecessor in title as to the royalty to be paid to the owner in respect of the coal mined or where such an agreement has, as provided in that agreement, been renewed, whether before or after the commencement of the *Mining Act Amendment Act 1976* for as long as there subsists a renewal of such an agreement; or

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- (b) mineral, that is not the property of the Crown and is not referred to in paragraph (a), mined under the authority of a mining claim or mining lease granted or renewed under this Act for so long as there subsists an agreement made prior to the commencement of this Act with the owner of the mineral or the owner's predecessor in title as to the royalty to be paid to the owner in respect of the mineral mined or where such an agreement has, as provided in that agreement, been renewed, whether before or after the commencement of this Act for so long as there subsists a renewal of such an agreement.
- (3) Where mineral is mined under the authority of a mining claim or a mining lease royalty payable under this chapter shall be payable—
- (a) where the Crown has the property in the mineral—to the Crown; or
- (b) in any other case—to the person who has the property in the mineral.
- (4) The holder of a mining claim, mining lease or another authority under this Act or another Act about mining who mines mineral or allows mineral to be mined from the area of the mining claim, mining lease or other authority must, whether or not the State has property in the mineral, lodge royalty returns as required under a regulation.
- (5) Unless a regulation otherwise provides, the holder of a mining claim or mining lease that authorises the mining of minerals for which royalty is or would be payable must lodge a royalty return whether or not mineral has been mined during the period of the return.
- (6) Where, during a period in respect of which a royalty return is required to be lodged, mineral is mined by more than 1 person under a mining claim or mining lease or other authority under this Act or any other Act the holder shall ensure lodgement of the prescribed royalty return and payment of the prescribed royalty in respect of all mineral mined during the whole of the

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period under the mining claim, mining lease or other authority.

- (7) A person who mines mineral from land other than under a mining claim, mining lease or other authority mentioned in subsection (1) or (2), must, whether or not the State has the property in the mineral—
 - (a) lodge the royalty returns as required under a regulation; and
 - (b) pay royalty to the State or anyone else who has property in the mineral at the rate required under a regulation.
- (8) The Minister may in the Minister's discretion determine that for the purpose of calculating royalty payable under this chapter, mineral has been mined under the 1 mining operation notwithstanding that that operation may be carried on under more than 1 authority granted under this or any other Act to mine that mineral.

321 Prescription of royalty

- (1) Regulations made pursuant to section 417, may prescribe the royalties payable in respect of mineral mined from land to the Crown or other person who had the property in the mineral.
- (2) Royalty may be prescribed whether the obligation to pay the royalty arises under this Act or under any agreement made with the State of Queensland or under any undertaking given by any person and shall be calculated at such rate or rates, in such manner and on such basis or bases as are prescribed by regulation.
- (3) Without limiting the authority of the Governor in Council to regulate with respect to royalty, a rate of royalty and the manner and basis of its calculation—
 - (a) may be prescribed by reference to the quantity of mineral-bearing ore removed or by reference to the quantity of mineral mined;

- (b) may be prescribed by reference to a proportion of the profits made from specified operations or from a particular operation or of the gross proceeds of the sale or disposal of the product of specified operations or of a particular operation;
- (c) may vary as between royalties payable in respect of different minerals;
- (d) may vary as between royalties payable by the same person or by different persons whether—
 - (i) in respect of the same mineral or different minerals;
 - (ii) in respect of mineral mined at the same place or at different places;
 - (iii) in respect of mineral mined at the same point in time or at different points in time;
 - (iv) in respect of mineral mined by the same method of mining or by different methods of mining;
- (e) may be prescribed to apply generally throughout the State or in any prescribed locality of the State;
- (f) may be prescribed in respect of all mining operations in the State or in respect of a particular mining operation or in respect of the mining operations of a particular person.

321A Regulation may impose civil penalties

- (1) This section applies if a regulation provides for a person to make an election about the time and manner, or amount, of payment of royalty to the State.
- (2) To deter exploitation of the provision, the regulation may impose a civil penalty—
 - (a) for contravention of a prescribed requirement; or
 - (b) in other prescribed circumstances.

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- (3) The amount of the civil penalty must be a prescribed amount or a prescribed percentage of royalty payable.

322 Minister may request audit

- (1) Without in any way limiting the powers of the Minister or any other person under this Act, in order to ascertain the accuracy of any royalty return document or statement lodged as prescribed by or under this Act for the purposes of this chapter by a person who is or was the holder of a mining claim or mining lease or who otherwise mines or who, the Minister suspects, may have mined from any land mineral, the Minister may, at any time, request and authorise—
- (a) the auditor-general; or
 - (b) a suitably qualified public service officer who carries out duties in the administration of this Act or another suitably qualified person engaged to carry out the duties;
- to examine that person's accounts and accounting records and to compare such records with the return, document or, as the case may be, statement.
- (2) The auditor-general or officer authorised under subsection (1)—
- (a) shall examine such of that person's accounts and accounting records as the auditor-general or officer considers necessary and forthwith upon completion of the examination and comparison, shall report to the Minister the result thereof;
 - (b) shall have, in respect of that person's accounts and accounting records, the subject of the examination and comparison, such powers as are prescribed;
 - (c) if the return, document or statement has been lodged by or for a corporation—may rely on work performed by auditors who have examined the corporation's accounts.
- (3) The provisions of the *Auditor-General Act 2009* that apply in relation to audits of accounts required by any Act to be

performed by the auditor-general apply in relation to examinations and reports under this section.

323 Resolving inconsistency between differing royalty provisions

Where there is inconsistency between the requirements of the regulations and the provisions of any agreement made with the State of Queensland or of any undertaking given by any person (whether made or given before or after the commencement of the *Mining Royalties Act 1974* and whether or not such provisions have the force of law) as respects the royalty payable to the Crown in respect of mineral mined or mineral-bearing ore removed in any mining operation or as respects the manner or basis of its calculation, the requirements of the regulations shall prevail and the royalty payable and the manner and basis of its calculation shall be as prescribed by regulation, and any amount of royalty paid pursuant to such agreement or undertaking in relation to any period shall be offset against the amount of royalty duly payable pursuant to the regulations in relation to the same period.

324 Utilisation of security deposit towards royalty payments

- (1) Where royalty is payable under this chapter by a person in respect of 1 mining operation (as determined by the Minister pursuant to section 320(8)) and is unpaid, that amount may be recovered by the Minister or, as the case may be, the chief executive by utilisation of security deposited by or on behalf of that person in respect of mining claims or mining leases or any of them under which the mining operation is carried on.
- (2) This section shall not be construed to limit the right to utilise a security deposit for any purpose under any other provision of this Act.

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325 Royalty return and payment upon transfer or surrender of mining claim or mining lease

- (1) A person who transfers or surrenders, otherwise than for the purpose of a grant of a new mining claim or mining lease, a mining claim or a mining lease shall lodge with the document of transfer or surrender a royalty return with respect to mineral mined under the authority of the mining claim or mining lease for the current return period up to the last day of the month immediately preceding the lodgement of the transfer or surrender and shall lodge with the return the prescribed royalty in respect of that mineral.
- (2) Nothing in subsection (1) shall abrogate the liability of a holder of a mining claim or mining lease at the time that minerals are mined thereunder to pay royalty on the minerals mined during the period from the date up to which the return required under subsection (1) is required up to the date the transfer or surrender thereof takes effect.
- (3) Despite subsection (1)—
 - (a) the person is not required to lodge the royalty return if the royalty return has already been lodged under section 320(4); and
 - (b) the person is not required to pay the royalty if the person has already paid the royalty under section 320.

Part 2 Records and information

326 Maintenance of records

- (1) A person who is the holder of a mining claim or a mining lease or who otherwise mines mineral from land shall keep accurate and proper accounting records such as are necessary to determine the amount of royalty payable from time to time under this chapter in respect of mineral mined.

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- (2) Such records shall be retained by that person for a period of 7 years after the completion of the transactions, acts or operations to which they relate.

327 Minister may require information

- (1) The Minister may, for the purpose of—
- (a) ascertaining whether there is any liability on a person to pay an amount of royalty under this Act, and if so, the amount of the liability; or
 - (b) ascertaining whether a person is required to comply with this chapter or whether this chapter has been contravened or not complied with by a person in any respect; or
 - (c) inquiring into any matter connected with the administration of this chapter;
- require a person—
- (d) to lodge a royalty return as prescribed in respect of a specified period, whether or not any mineral has been mined during that period; or
 - (e) to give information of a kind and in a form or manner required or to produce records (or copies thereof) (being information or records believed to be within the knowledge, in the custody or under the control of the person) at a place and within a time specified by the Minister, to the Minister or an officer authorised by the Minister; or
 - (f) to attend before the Minister or other officer specified by the Minister at a time and place specified by the Minister and there to give information and to produce records of a kind specified (being information or records believed to be within the knowledge, in the custody or under the control of the person) and to answer questions or to do all or any of those things.

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- (2) A person appointed for that purpose by the Minister and all other persons acting in aid of the person may enter any place wherein or whereon that person suspects on reasonable grounds that there are accounts, records, documents or other information in respect of which a requirement could be made under subsection (1), may search for and require production at that place or at any other specified place of such accounts, records, documents and information and may examine, copy and make extracts from any such accounts, records, documents and information.
- (3) Before a person referred to in subsection (2) enters a part of any place which part is used exclusively as a dwelling house the person shall, save where the person has the permission of the occupier of that part to the person's entry, obtain from a justice a warrant to enter.
- (4) A justice who is satisfied upon the complaint of a person referred to in subsection (2) that there is reasonable cause to suspect that in any place there are accounts, records, documents or other information referred to in subsection (2), may issue the justice's warrant directed to the complainant to enter the place named in the warrant for the purpose of exercising therein the powers conferred upon that person under this Act.
- (5) A complaint made under subsection (4) shall be made on oath or affirmation and shall set out the grounds on which the suspicion of the person making the same is based.
- (6) A justice who is the chief executive or other officer of the department of the Government for the time being administering this Act is not competent to issue a warrant to which subsections (3), (4) and (8) apply.
- (7) A justice who issues the justice's warrant pursuant to subsection (4) shall forward a copy of the warrant to the chief executive.
- (8) A warrant shall be, for the period of 1 month from the date of its issue, sufficient authority for the person named therein and all persons acting in aid of the person—

- (a) to enter the place specified in the warrant; and
 - (b) to exercise therein the powers conferred upon the person named therein by or under this Act.
- (9) In subsections (3) to (8) premises that are used as a dwelling house do not include the curtilage of those premises.
- (10) The Minister or an officer authorised by the Minister pursuant to subsection (1) may require information sought under this section to be given, verbally on oath or in writing by statutory declaration, as the case may be, and for that purpose the Minister, that officer or any justice may administer an oath or take a declaration.
- (11) The Minister or an officer authorised by the Minister pursuant to subsection (1) may cause to be made copies of or extracts from the whole or part of the information or accounts, records or documents produced in accordance with subsection (1).
- (12) A requirement pursuant to subsection (1) which requires a person to give information to, to attend before or to produce accounts, records or documents to an officer authorised by the Minister pursuant to subsection (1) may specify that officer by name or by the office that the officer holds.
- (13) Notwithstanding that a requirement made pursuant to subsection (1) requires a person to give information to, to attend before or to produce accounts, records or documents to an officer whose name or office is specified in the requirement, the Minister may at any time (without notice to the person to whom the notice was given) authorise another officer for that purpose to exercise any power or perform any duty that the officer would be able to exercise or perform if the officer were authorised pursuant to subsection (1).
- (14) Any reasonable expenses incurred by a person whose attendance is required under this section which are acceptable to the Minister may be allowed.

[s 327A]

327A Minister may require royalty estimate

- (1) The Minister may, by notice given to a person who is liable to pay a royalty under section 320, require the person to give the Minister a royalty estimate for the person for a stated future period.
- (2) The royalty estimate must be a written return containing the information prescribed under a regulation about the estimated royalties payable by the person for the future period.
- (3) The person must give the royalty estimate—
 - (a) in the way prescribed under a regulation; and
 - (b) no later than the day stated in the notice for giving the royalty estimate.

328 Offence not to comply with s 327

- (1) A person shall not fail to comply with a requirement made of the person under section 327.
- (2) A person shall not be convicted of an offence defined in subsection (1), if the court hearing the charge is satisfied—
 - (a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or
 - (b) that the defendant complied with that requirement to the extent of the defendant's ability to do so.
- (3) A person is not excused from complying with a requirement under section 327 to give information or answer a question on the ground that the information or answer might tend to incriminate the person or make the person liable to a penalty.
- (4) Information given or an answer made by a person in complying with a requirement under section 327, which might tend to incriminate the person or make the person liable to a penalty, is not admissible against the person in any proceedings brought against the person in a court in

Queensland with a view to the person's punishment for an alleged offence except—

- (a) proceedings in respect of an offence under this Act; or
 - (b) proceedings in respect of an offence in connection with verification of the information or answer by oath or affirmation.
- (5) Where a person commits an offence defined in subsection (1)—
- (a) the offence shall be a continuing offence and be deemed to continue for as long as the requirement in respect of which the offence was committed is not complied with; and
 - (b) the court may, upon convicting the person of the offence, in addition to any penalty that it may impose under subsection (1), order the person to pay a penalty of 5 penalty units for each day on which the offence is, pursuant to paragraph (a), deemed to have continued to the date of the person's conviction of the offence.
- (6) Subsection (5) applies notwithstanding that the failure or conduct alleged against a defendant related to a particular time by or a particular period in which the requirement was to be complied with.
- (7) Where a person has been convicted of an offence against subsection (1), the court may, in addition to imposing a penalty that it may impose under subsection (1) and, where applicable, subsection (5), order the person to comply with the requirement in respect of which the offence was committed.
- (8) Where a court makes an order under subsection (7), it shall specify therein a place where and a time or period by or within which the order is to be complied with.
- (9) A person shall not fail to comply with an order made by the court pursuant to subsection (7).
- (10) A person who after conviction of an offence defined in subsection (1) or this subsection (the *previous conviction*)

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continues to fail to comply with the requirement in respect of which the person incurred the previous conviction commits an offence against this Act.

Maximum penalty—10 penalty units for each day on which the person has continued to fail to comply with the requirement from the date of the last occurring previous conviction to the date of the person's conviction for the offence under this subsection last committed by the person.

- (11) When a person is convicted of an offence as defined in subsection (1) and the court makes an order under subsection (7), the person shall not be punished under subsection (10) for continuing to fail to comply with the requirement to which the order relates.

329 False or misleading statements

- (1) A person shall not give an answer, whether orally or in writing, that is false or misleading in a material particular to a question put to the person under section 327.
- (2) A person shall not, in providing information in accordance with section 327, make a statement or representation that is false or misleading in a material particular.
- (3) It is a defence to a charge under subsection (1) or (2) to prove that the defendant believed on reasonable grounds that the answer, statement or representation was neither false nor misleading.

330 Determination of facts by Minister

Where, in the opinion of the Minister a person who is required by this Act to lodge a royalty return in respect of a period fails to lodge the return as prescribed or fails to keep adequate records to enable the amount of royalty payable by that person to be determined, or the Minister considers that all relevant information has not been specified or information supplied is inaccurate or inappropriate, the Minister may determine what are the facts relevant to the determination of the royalty

payable and the royalty payable shall be calculated and be payable accordingly.

Part 3 Reassessment and enforcement

331 Reassessment of royalty

- (1) If the Minister, at any time, is satisfied that royalty has been assessed upon incorrect or inaccurate facts, the Minister may reassess the royalty payable.
- (2) Where the royalty payable, upon a reassessment, is greater than any amount paid the person liable to pay the royalty shall pay the difference in the time specified by the Minister.
- (3) Where the royalty paid, upon a reassessment, is greater than the royalty payable the Minister shall cause the difference to be refunded.

332 Unpaid royalty interest

- (1) A person must pay interest (*unpaid royalty interest*) on the amount of royalty payable by the person to the State and unpaid from time to time (*unpaid royalty*).
- (2) Unpaid royalty interest accrues on unpaid royalty—
 - (a) at the rate prescribed under a regulation; and
 - (b) daily, for the period starting on the day after the amount is required to be paid under this Act (the *start date*) and ending on the day the unpaid royalty is paid in full, both days inclusive.
- (3) A regulation may prescribe how unpaid royalty interest is worked out in particular cases or classes of cases, including,

[s 332A]

for example, how the interest is worked out if royalty is, under a regulation, payable in instalments.

- (4) If the time for payment of royalty by a person is extended, the extension of time must be disregarded for working out the start date.
- (5) The order of application of a payment under section 332A applies to determine the amount of unpaid royalty on which unpaid royalty interest accrues.
- (6) The Minister may remit the whole or part of unpaid royalty interest payable under this section.

332A Application of payments

A payment made by a person to the State for a liability relating to royalty must be applied in the following order—

- (a) first, an amount payable under this Act in relation to the royalty, other than unpaid royalty interest or royalty;
- (b) second, unpaid royalty interest;
- (c) last, royalty.

333 Recovery of unpaid amounts

- (1) This section applies if a person does not pay the whole or part of any of the following payable under this Act—
 - (a) royalty;
 - (b) unpaid royalty interest;
 - (c) a civil penalty.
- (2) The unpaid amount is a debt payable to the relevant entity and may be recovered by the relevant entity in a court of competent jurisdiction.
- (3) Subsection (2) applies in relation to a civil penalty despite section 412(3).
- (4) In this section—

civil penalty means a civil penalty provided for under a regulation made under section 321A.

relevant entity means—

- (a) for royalty payable to the State, unpaid royalty interest or a civil penalty—the State; or
- (b) for royalty payable to a person—the person to whom royalty is payable.

334 Furnishing false particulars etc.

A person whether liable to the payment of royalty or not shall not—

- (a) fail or neglect to furnish a royalty return as and when required to do so by this Act; or
- (b) fail or neglect to comply with any requirement of the Minister in regard to a royalty return; or
- (c) make or deliver a false royalty return or supply false information with respect to a royalty return so made or delivered by the person.

Part 4 Confidentiality

334A Definitions for pt 4

In this part—

confidential information means information disclosed to, obtained by, or otherwise held by, a public official under or in relation to this chapter.

public official means a person who is, or has been, a public service employee or other person, performing functions under or in relation to the administration or enforcement of this Act.

[s 334B]

334B Disclosure of confidential information

- (1) A public official must not disclose confidential information acquired by the public official in the public official's capacity to anyone else other than under this part.

Maximum penalty—100 penalty units.

- (2) The Minister may disclose personal confidential information—
- (a) to the person to whom the information relates or, if either of the following apply, to someone else—
 - (i) with the consent, express or implied, of the person to whom the information relates;
 - (ii) the Minister reasonably believes is acting for the person to whom the information relates; or
 - (b) if the disclosure is expressly permitted or required under another Act; or
 - (c) to a person for the administration or enforcement of—
 - (i) a royalty law; or
 - (ii) a tax law or another law administered by the revenue commissioner; or
 - (iii) another law about public revenue; or
 - (d) in relation to any legal proceeding under this Act; or
 - (e) to an officer of the department for—
 - (i) developing or monitoring revenue policies; or
 - (ii) administering the *Financial Accountability Act 2009*, section 21.
- (3) Also, if the Minister becomes aware, from information obtained or held by the Minister in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the Minister may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the

Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).

- (4) Also, the Minister may disclose confidential information, other than personal confidential information, to any person, or for any purpose, the Minister is satisfied is appropriate in the circumstances.
- (5) This section does not create a right in any person to be given confidential information.
- (6) In this section—

personal confidential information, for a person, means confidential information that—

- (a) identifies, or is likely to identify, the person; or
- (b) discloses matters about the person's affairs.

revenue commissioner means the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*, section 7(2).

royalty law means this Act or another Act administered by the Minister providing for payment of a royalty.

tax law see the *Taxation Administration Act 2001*, schedule 2.

334C Other obligations about disclosure and use of confidential information

- (1) If—
 - (a) a person knowingly acquires confidential information without lawful authority; or
 - (b) a person receives confidential information that the person knows, or ought reasonably to know, is confidential information;

the person must not disclose the information to anyone else unless the disclosure is permitted under this part.

Maximum penalty—100 penalty units.

[s 334D]

Example for subsection (1)(a)—

A person employed by a contractor engaged by the State to clean the department's offices reads a document in the Minister's office containing confidential information.

Example for subsection (1)(b)—

A person, other than the addressee of a fax, receives the fax that states the information in it is confidential and is intended for the addressee's purposes only.

Note—

This provision is an executive liability provision—see section 412A.

- (2) If, under section 334B, the Minister discloses confidential information to a person, the person may disclose the information—
- (a) to the extent necessary to enable the person to exercise a power or perform a function conferred on the person under a law for the administration or enforcement of the law; or
 - (b) for the purpose for which it was disclosed under the section; or
 - (c) to anyone else or for any purpose if the information relates to the person.

334D Refusal of disclosure of particular information

- (1) A person engaged in the administration or enforcement of this Act can not be compelled to disclose to a court or QCAT in a proceeding, or to a party to the proceeding—
- (a) confidential information; or
 - (b) whether or not the person has received particular confidential information; or
 - (c) the identity of the source of particular confidential information.
- (2) Subsection (1) does not apply to a proceeding for the administration or enforcement of this Act.

Chapter 12 Provisions about particular areas, matters or mining tenements

Part 1 Provisions for McFarlane oil shale deposit

Division 1 Preliminary

334E Application of pt 1

- (1) Subject to subsection (3), this part applies to all of the following land from when this section commences to 17 August 2028 (the *moratorium period*)—
 - (a) land in the area of mineral development licence 202;
 - (b) land in the area of exploration permits 3520 and 16668;
 - (c) the area of exploration permit application 16748;
 - (d) land prescribed under a regulation (*prescribed land*).
- (2) A regulation may be made under subsection (1)(d) only if the land to which this section applies will, after the making of the regulation, be a contiguous parcel of land.
- (3) This part applies to prescribed land only from the commencement of the regulation prescribing the oil shale mining tenement.

334F What is an *oil shale mining tenement*

- (1) An *oil shale mining tenement* is a mining tenement granted for oil shale.
- (2) Subsection (1) applies whether or not the mining tenement is also granted for another mineral.

[s 334G]

334G Relationship with other provisions of this Act

- (1) This part applies despite any other provision of this Act and the conditions or other provisions of an oil shale mining tenement.
- (2) If a provision of this part conflicts with another provision of this Act, the provision of this part prevails to the extent of the inconsistency.

Division 2 Moratorium provisions

334H Prohibition on granting oil shale mining tenements

- (1) During the moratorium period an oil shale mining tenement can not be granted for the land.
- (2) To remove any doubt, it is declared that subsection (1) does not apply for a renewal that takes place because of section 334O.

334I Suspension of oil shale activities

- (1) This section applies to an activity relating to oil shale (an *oil shale activity*) that would, other than for this section, have been an authorised activity for an oil shale mining tenement for the land.
- (2) Subject to section 334J—
 - (a) during the moratorium period, any right to carry out the oil shale activity is suspended; and
 - (b) during the suspension—
 - (i) the oil shale activity is not an authorised activity for the mining tenement; and
 - (ii) for section 402, the oil shale activity is taken not to be authorised under this Act or any other Act relating to mining.

334J Access rights for particular activities

- (1) During the moratorium period, the holder of an oil shale mining tenement for the land may—
 - (a) enter the area of the mining tenement to carry out rehabilitation or environmental management mentioned in section 391B; and
 - (b) if the mining tenement is not a prospecting permit or exploration permit—enter the area to carry out low impact environmental monitoring; and

Examples—

the monitoring of air, ecology, fauna, hydrology, soil or water

 - (c) enter the area to do all or any of the following—
 - (i) move, remove or maintain equipment, machinery or plant;
 - (ii) carry out improvement restoration for the mining tenement;
 - (iii) carry out care and maintenance of disturbed areas;
 - (iv) carry out low impact track construction or maintenance;
 - (v) put in place or maintain low impact infrastructure for a purpose mentioned in subparagraphs (i) to (iv).
- (2) However, if the mining tenement is a prospecting permit or exploration permit, an activity mentioned in subsection (1)(c)(iv) or (v) may be carried out only if it is reasonably necessary because of rehabilitation or environmental management carried out under subsection (1)(a).
- (3) The holder's rights and obligations under the rest of this Act continue to apply for an entry and the carrying out of an activity authorised under subsection (1).
- (4) Without limiting subsection (3), a requirement under the rest of this Act that, other than for this part, would apply for an

[s 334K]

entry of a type authorised under subsection (1) applies for an entry authorised under subsection (1).

(5) In this section—

low impact means of low impact on the environment and of low impact for land disturbance.

rest of this Act means the provisions of this Act other than this part.

334K Ministerial power to suspend rental obligation

(1) This section applies if the Minister is satisfied that, because of section 334I, the holder of an oil shale mining tenement for the land is not able to, or will not be able to, carry out any authorised activity for the mining tenement.

(2) The Minister may decide to suspend the holder's rental obligation for all or any part of the current term of the mining tenement.

(3) However, the suspension can not take effect before 1 January 2009.

(4) During the suspension the holder's rental obligation does not apply.

(5) In this section—

holder's rental obligation means the holder's obligation under this Act or a condition of the mining tenement to pay rent for the mining tenement.

334L Suspension or waiver of reporting obligations

(1) During the moratorium period a reporting obligation of the holder of an oil shale mining tenement for the land is suspended to the extent it relates to oil shale activities.

(2) Subsection (3) applies if the Minister is satisfied authorised activities have not been, or will not be, carried out for the

mining tenement during all or any part of the current term of the mining tenement.

- (3) The Minister may, by written notice to the holder, waive the reporting obligation of the holder for all or any part of the current term of the mining tenement.

- (4) In this section—

reporting obligation means an obligation under this Act or a condition of the mining tenement to submit reports to the Minister about authorised activities for the mining tenement.

334M Suspension or waiver of performance requirements

- (1) During the moratorium period a performance requirement of the holder of an oil shale mining tenement for the land is suspended to the extent it relates to oil shale activities.

- (2) The Minister may, by written notice to the holder, waive or reduce a performance requirement of the holder during all or any part of the current term of the mining tenement to take account of the effect of section 334I.

- (3) In this section—

performance requirement means a requirement under this Act or a condition of a mining tenement about performance.

334N Transfers

- (1) During the moratorium period the following may be transferred only if the conditions mentioned in subsection (2) have been complied with—

- (a) an oil shale mining tenement for the land;
- (b) an interest in an oil shale mining tenement for the land;
- (c) an application for an oil shale mining tenement for the land.

- (2) For subsection (1), the conditions are—

[s 334O]

- (a) the Minister has given written consent to the transfer; and
 - (b) the transfer is made in the approved form and lodged with the chief executive; and
 - (c) the lodgement is accompanied by the fee prescribed under a regulation.
- (3) The Minister may, if asked in writing by the holder of, or the applicant for, the mining tenement and the proposed transferee, give written consent to the transfer.
- (4) However, if there is an approved form for the making of the request, the request may be made only if it is in that form.

334O Renewals

- (1) This section applies if, during the moratorium period, an oil shale mining tenement for the land reaches its expiry day.
- (2) The mining tenement is taken to have been renewed.
- (3) The term of the renewed mining tenement starts on the day after the expiry day and has the same duration as the mining tenement's term that ended on the expiry day.
- (4) The renewed mining tenement has the same conditions that the mining tenement had immediately before the expiry day.

334P Rights and obligations under other Acts not affected

To remove any doubt, it is declared that this division does not limit or otherwise affect or suspend rights or obligations of the holder of an oil shale mining tenement under—

- (a) the Environmental Protection Act; or
- (b) a relevant environmental condition for the mining tenement; or
- (c) the Petroleum and Gas (Production and Safety) Act, chapter 3; or

Editor's note—

Petroleum and Gas (Production and Safety) Act, chapter 3
(Provisions for coal seam gas)

- (d) another Act relevant to mining tenements.

Part 2 Collingwood Park State guarantee

334Q Definitions for pt 2

In this part—

affected land means land that, on 5 November 2008, was—

- (a) a part of the place given the name of Collingwood Park and entered in the Gazetteer of Place Names under the *Place Names Act 1994*; and
- (b) used only for a residential, charitable or religious purpose.

Collingwood Park State guarantee or *guarantee* see section 334R.

registrar means the registrar of titles under the *Land Title Act 1994*.

334R What is the *Collingwood Park State guarantee*

- (1) The *Collingwood Park State guarantee* or *guarantee* is a guarantee given by the State, under this Act, for affected land—
- (a) to pay for any works necessary to stabilise the affected land if subsidence damage to the land occurs; or
- (b) to repair any subsidence damage to the affected land if, in the chief executive's opinion, it is cost-effective for the State to repair the damage; or

[s 334S]

- (c) to purchase the affected land at market value if—
 - (i) the land is affected by subsidence damage; and
 - (ii) in the chief executive’s opinion, it is not cost-effective for the State to repair the damage.
- (2) A decision about the guarantee under subsection (1) is made under this Act.
- (3) In this section—

market value, of affected land, means the market value the land would have had, at the time the chief executive formed the opinion mentioned in subsection (1)(c)(ii), if the subsidence damage had not happened.

mining activity means an activity for the purpose of extracting coal by underground mining.

subsidence damage, for affected land, means damage to the affected land, or any buildings or structures on the land that were in existence at the beginning of 25 April 2008, caused by or related to subsidence resulting from mining activity.

334S Registering guarantee in freehold land register

- (1) An owner of affected land may, in writing, ask the chief executive to have a record of the guarantee for the land included on the freehold land register.
- (2) If a request is made under subsection (1), the chief executive must, as soon as practicable, give the registrar written notice asking the registrar to keep a record of the guarantee for the land.
- (3) On receiving the notice, the registrar must keep a record so that a search of the freehold land register will show the guarantee for the affected land.

334T Removing guarantee from registrar's records

- (1) An owner of affected land may, in writing, ask the chief executive to have a record of the guarantee for the land removed from the freehold land register.
- (2) If a request is made under subsection (1), the chief executive must give the registrar written notice asking the registrar to remove the record of the guarantee for the affected land from the registrar's records.
- (3) As soon as practicable after receiving the notice, the registrar must remove the record of the guarantee for the affected land from the registrar's records.
- (4) The guarantee for the affected land may not be removed other than under this section.

334U No fee payable

No fee is payable to the registrar for keeping or removing, under this part, a record of the guarantee for affected land.

Part 3 Wild river areas

334V Definitions for pt 3

In this part—

lake see the *Water Act 2000*, schedule 4.

limited hand sampling techniques means—

- (a) taking samples no larger than 20kg; and
- (b) for taking the samples, removing material using only non-mechanical means; and
- (c) if digging is necessary—
 - (i) digging—

[s 334V]

- (A) no deeper than 1m; and
 - (B) not more than 1m³; and
 - (C) along a watercourse or in a lake—at places at least 250m apart; and
- (ii) leaving, in the area where the digging has taken place, any soil or other material disturbed while taking the samples.

low impact activity—

- (a) for an exploration permit—has the same meaning for this part as it has under schedule 1A, section 482 for schedule 1A, part 4; and
- (b) for a mineral development licence—has the same meaning for this part as it has under schedule 1A, section 538 for schedule 1A, part 5; and
- (c) for a mining lease—means an activity that is a low impact activity under paragraph (b).

nominated waterway see the *Wild Rivers Act 2005*, schedule.

person, in relation to deciding an application under section 334Y or 334Z, means 1 of the following—

- (a) the Governor in Council;
- (b) the Minister;
- (c) the Land Court;
- (d) the chief executive.

proposed wild river area see the *Wild Rivers Act 2005*, schedule.

specified works see the *Wild Rivers Act 2005*, section 48(2).

watercourse see the *Water Act 2000*, schedule 4.

wild river high preservation area means a high preservation area under the *Wild Rivers Act 2005*.

wild river preservation area means a preservation area under the *Wild Rivers Act 2005*.

wild river special floodplain management area means a special floodplain management area under the *Wild Rivers Act 2005*.

334W Grant of mining tenements in wild river areas

- (1) If a mining tenement, other than an exploration permit, a mineral development licence or a mining lease, is granted over an area that includes a wild river area, the following parts of the wild river area are excluded from the area of the mining tenement—
 - (a) the wild river high preservation area or the wild river special floodplain management area;
 - (b) nominated waterways in the wild river preservation area.
- (2) If an exploration permit is granted over land that includes a wild river area, exploration may be carried out—
 - (a) to the extent the exploration permit applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the exploration permit applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.
- (3) If a mineral development licence is granted over land that includes a wild river area, an authorised activity for the licence may be carried out—
 - (a) to the extent the licence applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the licence applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated

[s 334W]

waterways—using only limited hand sampling techniques.

- (3A) Subject to subsection (3B), if a mining lease is granted over land that includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) must not be carried out—
- (a) on the surface of the land in the wild river high preservation area or the wild river special floodplain management area; or
 - (b) in a nominated waterway.
- (3B) If a mining lease is granted over land that includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) may be carried out—
- (a) to the extent the lease applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the lease applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.
- (4) Subsections (3A)(b) and (3B)(b) do not apply in relation to a nominated waterway if—
- (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a coordinated project; and
 - (b) the report evaluating the EIS for the project shows—
 - (i) the natural values of the wild river, included in the wild river preservation area, will be preserved; and
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and

-
- (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.
- (5) Subsections (1) to (4) do not apply to a mining tenement—
- (a) for a project for which a special agreement Act was enacted; and
 - (b) application for which was allowed, under the special agreement Act, to be made.
- (6) Subsection (1) does not prevent a single mining tenement applying to the land not excluded under subsection (1).
- (7) The holder of a mining tenement is not required to pay rental on land excluded under this section.

334X Renewal of mining tenements in wild river areas

- (1) If a mining tenement, other than an exploration permit, a mineral development licence, a mining lease or a mining claim, is renewed over an area that, at the time of the renewal, includes a wild river area, the following parts of the wild river area are excluded from the area of the renewed mining tenement—
- (a) the wild river high preservation area or the wild river special floodplain management area;
 - (b) nominated waterways in the wild river preservation area.
- (2) If an exploration permit is renewed over land that, at the time of the renewal, includes a wild river area, exploration may be carried out—
- (a) to the extent the renewed exploration permit applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the renewed exploration permit applies to watercourses and lakes in the wild river high

[s 334X]

preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.

- (3) If a mineral development licence is renewed over land that includes a wild river area, an authorised activity for the licence may be carried out—
- (a) to the extent the renewed licence applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the renewed licence applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.
- (3A) Subject to subsection (3B), if a mining lease is renewed over land that, at the time of the renewal, includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) must not be carried out—
- (a) on the surface of the land in the wild river high preservation area or the wild river special floodplain management area; or
 - (b) in a nominated waterway.
- (3B) If a mining lease is renewed over land that, at the time of the renewal, includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) may be carried out—
- (a) to the extent the renewed lease applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the renewed lease applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or

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- nominated waterways—using only limited hand sampling techniques.
- (4) Subsections (3A)(b) and (3B)(b) do not apply in relation to a nominated waterway if—
- (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a coordinated project; and
 - (b) the report evaluating the EIS for the project shows—
 - (i) the natural values of the wild river, included in the wild river preservation area, will be preserved; and
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the renewal of the lease over the nominated waterway.
- (5) Subsections (1) to (4) do not apply to a mining tenement—
- (a) for a project for which a special agreement Act was enacted; and
 - (b) application for which was allowed, under the special agreement Act, to be made.
- (6) Subsection (1) does not prevent a single mining tenement applying to the land not excluded under subsection (1).
- (7) The holder of a mining tenement is not required to pay rental on land excluded under this section.

334Y Amending applications for mining tenements in wild river areas

- (1) This section applies for an application for a mining tenement, other than a prospecting permit, (an *original application*) over land that includes a wild river area.

[s 334Y]

- (2) The applicant may apply (an *amending application*) to the Minister to amend the original application to exclude all or part of the wild river area from the original application.
- (3) The Minister must, within 1 month after receiving the amending application—
 - (a) consult with the EPA administering authority about the amendment; and
 - (b) advise the applicant of anything further the applicant is required to do for the amending application to be approved.

Examples for subsection (3)(b)—

- notify landholders who may be affected by approval of the amending application
 - submit amendments of documents submitted with the original application
- (4) If the person deciding the original application is satisfied the applicant has complied with any requirement under subsection (3)(b), the person must approve the amending application.
 - (5) If the Minister receives an amending application—
 - (a) the original application must not proceed until the first of the following happens—
 - (i) the amending application is approved;
 - (ii) the applicant withdraws the amending application; and
 - (b) any time limit for the original application does not include the period—
 - (i) starting when the amending application is received; and
 - (ii) ending under paragraph (a)(i) or (ii).
 - (6) An amendment of an original application under this section does not prevent a single mining tenement applying to the remaining land mentioned in the original application.

334Z Addition of excluded land to mining tenement

- (1) This section applies if—
 - (a) a person holds a mining tenement other than a prospecting permit; and
 - (b) at the time the mining tenement was granted or renewed, a part of the mining tenement area was excluded under section 334W or 334X.
- (2) The holder of the mining tenement may, within 12 months after the mining tenement was granted or renewed, apply to the chief executive to include in the mining tenement area, land—
 - (a) that adjoins the mining tenement area; and
 - (b) that was excluded under section 334W or 334X from the mining tenement area; and
 - (c) that would not, at the time the application is made under this section, be excluded under section 334W or 334X.
- (3) The application must be decided by a person authorised under this Act to decide an application for the type of mining tenement held.
- (4) The person deciding the application must—
 - (a) consider whether it is appropriate to include the land in the mining tenement area, including considering—
 - (i) any objections made to the grant of the mining tenement; and
 - (ii) any relevant recommendations of the Land Court in relation to the grant of the mining tenement; and
 - (b) consult with the EPA administering authority about the application.
- (5) If the person decides to approve the application, the person may—
 - (a) impose additional conditions on the mining tenement; and

[s 334ZA]

- (b) fix an amount of security to be deposited in addition to any security for the existing mining tenement.
- (6) The person must not approve an application in relation to a mining claim or a mining lease, until compensation between the applicant and the owner of the land to which the application applies has been agreed or determined.
- (7) Within 5 business days after the application is decided, the chief executive must—
 - (a) notify the mining tenement holder of the decision; and
 - (b) if the application is approved—
 - (i) amend the mining tenement to give effect to the approval; and
 - (ii) record particulars of the approval in the register.

334ZA Addition of wild river area to mining tenement

- (1) A person who holds a mining tenement other than a prospecting permit may apply to include in the area of the mining tenement, land—
 - (a) that is, or was, either—
 - (i) a proposed wild river area; or
 - (ii) a wild river area; and
 - (b) that adjoins the mining tenement area; and
 - (c) that is within the boundary of the area to which the original application for the mining tenement related.
- (2) An application under this section must be made and dealt with as if it were an application under this Act for the type of mining tenement held.
- (3) However, if the application is for a mining claim or a mining lease—
 - (a) the posting of a copy of a mining claim application certificate or certificate of public notice on a

-
- conspicuous part of the area to which the application relates is sufficient compliance with a requirement of this Act to post a copy of the certificate on the datum post of the area; and
- (b) the mining claim application certificate, certificate of application and the certificate of public notice must state, as the number of the proposed mining claim or mining lease, the number of the existing mining claim or mining lease, together with the words ‘addition of wild river area’.
- (4) Within 5 business days after the application is decided, the chief executive must—
- (a) notify the mining tenement holder of the decision; and
- (b) if the application is approved—
- (i) amend the mining tenement to give effect to the approval; and
- (ii) record particulars of the approval in the register.
- (5) This section does not affect the application of sections 334W and 334X.

Part 4 Cherwell Creek provisions

334ZB Definitions for pt 4

In this part—

Cherwell Creek means Cherwell Creek Coal Pty Ltd ACN 063 763 002.

commencement day means the day this part commences.

prescribed persons means the holders of mining lease 1775 from time to time.

[s 334ZC]

334ZC Renewal of EPC545

- (1) This section applies to exploration permit for coal 545.
- (2) The permit is renewed for a term of 2 years starting on the commencement day.
- (3) However, the renewed permit applies only to the following land—
 - Clermont Block 1777, sub-block w
 - Clermont Block 1777, sub-block x, but excluding land subject to MDLA 364 or ML 1775
 - Clermont Block 1849, sub-blocks b, g, m and x
 - Clermont Block 1849, sub-blocks c, h and n, but excluding land subject to MDLA 364 or ML 1775
 - Clermont Block 1849, sub-block s, but excluding land subject to MDLA 364
 - Clermont Block 1849, sub-blocks u and z, but excluding land subject to MDLA 366 or ML 1775
 - Clermont Block 1849, sub-block y, but excluding land subject to MDLA 366
 - Clermont Block 1921, sub-blocks d and e, but excluding land subject to MDLA 366
 - Clermont Block 1921, sub-block k
 - Clermont Block 1922, sub-blocks a, g, h, o and u, but excluding land subject to MDLA 366 or ML 1775
 - Clermont Block 1922, sub-blocks f, m, n, t and z, but excluding land subject to MDLA 366
 - Clermont Block 1923, sub-block v, but excluding land subject to MDLA 366 or ML 1775.
- (4) Subsection (2) applies despite section 147D(2).
- (5) The renewed permit is subject to the following conditions—

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- (a) the holder must expend at least \$50000 in each year of the term of the permit on activities authorised by the permit;
 - (b) the holder must carry out the program of work stated in the application for renewal of the permit dated 28 May 2007;
 - (c) the holder must comply with the document titled ‘Schedule of General Exclusions and Conditions, version 13 (February 2003)’ mentioned in the renewal of the permit granted on 26 August 2003;
 - (d) the conditions applying under section 141.
- (6) The renewal has effect as if it were granted by the Minister under this Act.
 - (7) The land mentioned in subsection (3) as being excluded from the sub-blocks mentioned in the subsection is excluded land for section 176A.
 - (8) However, to remove any doubt, it is declared that section 176A applies subject to sections 334ZE and 334ZF.
 - (9) Except as otherwise stated, this section does not limit the application of other provisions of this Act to the renewed permit including, for example, provisions about cancelling an exploration permit or reducing its area.
 - (10) In this section—

MDLA 364 means application for mineral development licence 364.

MDLA 366 means application for mineral development licence 366.

ML 1775 means mining lease 1775.

334ZD Rejection of particular applications for mining tenements

- (1) This section applies to each application for a mining tenement that—

[s 334ZE]

- (a) was made by Cherwell Creek; and
 - (b) relates to all or any of the prescribed land under section 334ZE or 334ZF; and
 - (c) was current immediately before the commencement day.
- (2) The application is rejected.

334ZE Persons who may apply for, or be granted, a mining tenement for land in the area of MDLA364

- (1) For the prescribed period—
- (a) a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons; and
 - (b) no other mining tenement in respect of all or any of the prescribed land can be applied for by, or granted to, anyone.
- (2) Subsection (1)(a) applies despite section 232(1).
- (3) For subsection (1), the prescribed period is the period of 2 years starting on the commencement day or, if an extension is granted under subsection (4), the extended period.
- (4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1)(a) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.
- (5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.
- (6) The prescribed persons are eligible persons for section 233.
- (7) In this section—

prescribed land means the land in Clermont Block 1849, sub-block t and the land that, as at the beginning of 14 April

2008, was the subject of application for mineral development licence 364 made by Cherwell Creek.

334ZF Persons who may apply for, or be granted, a mining tenement for particular land in the area of SL12/42239

- (1) For the prescribed period—
 - (a) a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons; and
 - (b) no other mining tenement in respect of all or any of the prescribed land can be applied for by, or granted to, anyone.
- (2) Subsection (1)(a) applies despite section 232(1).
- (3) For subsection (1), the prescribed period is the period of 1 year starting on the commencement day or, if an extension is granted under subsection (4), the extended period.
- (4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1)(a) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.
- (5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.
- (6) The prescribed persons are eligible persons for section 233.
- (7) In this section—

prescribed land means land that, as at the beginning of 14 April 2008—

 - (a) was in the area of special lease 12/42239 (title reference 17560077); and
 - (b) was—
 - (i) the subject of exploration permit for coal 545; or

[s 334ZG]

- (ii) neither in the area of a mining tenement nor the subject of a current application for a mining tenement.

334ZG No consent required for application for mining tenement for particular land

- (1) This section applies to an application for a mining lease by the prescribed persons in respect of all or any prescribed land under section 334ZE or 334ZF, if the land is in the area of an existing authority within the meaning of section 248(1).
- (2) Despite section 248(2), the written consent to the application of the holder of the existing authority need not be obtained by the prescribed persons.
- (3) Also, section 248(4) does not apply to the application.
- (4) To remove any doubt, it is declared that this section applies to the application whether it was made before or after the commencement of this section.

334ZH Deciding application to add excluded land to EPC 545

- (1) This section applies to an application under section 176A to add excluded land to exploration permit for coal 545 (the *excluded land application*) whether the application was made before or after the commencement of this section.
- (2) If—
 - (a) the excluded land application involves prescribed land under section 334ZE or 334ZF; and
 - (b) the prescribed persons have, under section 7334ZE or 334ZF, applied for a mining lease in respect of the prescribed land;

the Minister need not decide the excluded land application, to the extent it relates to the prescribed land, until after the day each application for a mining lease in respect of the prescribed land has been finally decided.

- (3) For this Act, if the Minister defers deciding a part of the excluded land application under subsection (2), the application is taken not to have been finally decided by the Minister until the day the Minister decides that part.
- (4) In this section—
excluded land means—
 - (a) excluded land as defined under section 176A(5); or
 - (b) land that, under section 334ZC(7), is excluded land for section 176A.

334ZI No compensation payable by the State

- (1) No compensation is payable by the State to Cherwell Creek or any other person for or in connection with the enactment or operation of this part or anything done to carry out or give effect to this part.
- (2) Without limiting subsection (1), the State is not liable to Cherwell Creek or any other person for any claim arising out of or in any way connected to the rejection of applications under section 334ZD.
- (3) This section applies despite any other Act or law.
- (4) In this part—
State includes any person acting, or purportedly acting, for or on behalf of the State at any time.

334ZJ Compensation payment by prescribed persons

- (1) Cherwell Creek may apply to the Land Court for an order for the payment of compensation for the loss of its opportunity, because of the enactment of this part, to commercialise the MDLA364 coal resource.
- (2) An application may only be made within 3 months after the commencement day.

[s 334ZJ]

- (3) The prescribed persons are parties to the proceeding on the application.
- (4) On an application under this section, the Land Court must—
 - (a) decide whether any compensation should be payable; and
 - (b) if it decides compensation should be payable—
 - (i) decide the amount of compensation; and
 - (ii) make an order for payment of the amount by the prescribed persons to Cherwell Creek.
- (5) In making a decision under subsection (4), the Land Court must have regard to the likelihood that, had this part not been enacted, Cherwell Creek, alone or in conjunction with another person, would have been able to commercialise the MDLA364 coal resource, having regard to the following matters—
 - (a) the likely extent and quality of the MDLA364 coal resource;
 - (b) the likely mineability of the MDLA364 coal resource;
 - (c) the likely market for any coal mined from the MDLA364 coal resource;
 - (d) the likely life of a mine for the MDLA364 coal resource;
 - (e) the likely coal revenue generated from the MDLA364 coal resource;
 - (f) the likely coal revenue generation costs;
 - (g) the likelihood of a mining lease, appropriate for Cherwell Creek to commercialise the MDLA364 coal resource, being granted under this Act;

Note—

See sections 269(4) and 271 for matters that the Land Court and Minister take into account in dealing with an application for the grant of a mining lease.

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- (h) any other relevant matter.
- (6) Cherwell Creek may appeal to the Land Appeal Court against a decision of the Land Court under this section only on the ground of error of law.
- (7) Subsection (6) applies despite the *Land Court Act 2000*, section 64.
- (8) In this section—

coal revenue generation costs means the costs of generating revenue from the MDLA364 coal resource, including the costs of, or relating to, the following—

- (a) the proving up of the MDLA364 coal resource;
- (b) mine planning and environmental planning;
- (c) development and construction of a coal mine and associated infrastructure;
- (d) compliance with this Act, the *Environmental Protection Act 1994* and the *Coal Mining Safety and Health Act 1999*;
- (e) extraction of coal;
- (f) preparation of coal;
- (g) transportation, including access to railways, ports or other relevant infrastructure;
- (h) employed or contracted labour;
- (i) equipment;
- (j) marketing;
- (k) financing;
- (l) rent and royalties payable to the State.

MDLA364 coal resource means the coal resource in the land that, as at the beginning of 14 April 2008, was the subject of application for mineral development licence 364.

prescribed persons means the persons who are the holders of mining lease 1775 on the commencement day.

Part 5 Other provisions

334ZK Validation of granting of mining lease 1978

- (1) This section applies to mining lease 1978.
- (2) The mining lease is taken to be, and always to have been, validly granted under section 234.
- (3) The area of the mining lease is taken to exclude, and always to have excluded, the parts of Crinum Creek, within the boundaries of the mining lease, as shown on RP805034 and RP615398.
- (4) The surface area comprised in the mining lease is taken to include, and always to have included, the surface area of the land (other than the land described as lot 6 on RP806552) that, under subsection (3), is comprised in the mining lease.
- (5) To remove any doubt, it is declared that nothing in this section affects an agreement, or determination by the tribunal, made under this Act before the commencement of this section about compensation payable by the holder of the mining lease for the surface area of any land being included in the mining lease.

334ZL Validation of inclusion of additional surface area No. 2 in mining lease 4761

- (1) This section applies to mining lease 4761.
- (2) The application made under section 275 to include additional surface area No. 2 in the mining lease is taken to have been validly granted on 29 March 2007.
- (3) Additional surface area No. 2 is taken to have been included in the mining lease on 29 March 2007.
- (4) To remove any doubt, it is declared that nothing in this section affects an agreement, or determination by the tribunal, made under this Act before the commencement of this section about compensation payable by the holder of the mining lease for

additional surface area No. 2 being included in the mining lease.

- (5) To remove any doubt, it is declared that this section does not limit or otherwise affect the operation of section 416 in relation to the application or the mining lease.
- (6) In this section—

additional surface area No. 2 means the area identified as surface area 3 in mine plan 37891 recorded under this Act in the register.

334ZM Provisions about compensation for owners of lots 65 and 66 on RP909055

- (1) This section applies to—
 - (a) lot 65 on RP909055 (*lot 65*), part of the surface area of which, under section 334ZK, is taken to be, and always to have been, included in mining lease 1978; and
 - (b) lot 66 on RP909055 (*lot 66*) part of which is comprised in mining lease 1978.
- (2) The holder of the mining lease must pay compensation to the owner of lot 65.
- (3) The compensation amount and the terms on which it is payable must be—
 - (a) the subject of an agreement between the holder and the owner; or
 - (b) decided by the Land Court under section 281 as if it were compensation referred to in section 279.
- (4) This Act applies as if the agreement mentioned in subsection (3)(a) were an agreement mentioned in section 279(1)(a).

Editor's note—

See, for example, sections 279(3) and (4) and 281.

- (5) No compensation is payable by the holder of the mining lease to the owner of lot 66.

[s 334ZN]

- (6) Subsection (5) applies despite section 416 and the *Property Law Act 1974*.

334ZN Cancellation of Shelburne Bay mining leases

- (1) On and from the commencement of this section—
- (a) the relevant mining leases are cancelled; and
 - (b) without limiting paragraph (a), and despite any entitlement there may otherwise be under this Act for the renewal of the relevant mining leases—
 - (i) any application made before the commencement for the renewal of the leases must not be further dealt with under this Act; and
 - (ii) the Minister must not grant a renewal of the leases.
- (2) No compensation is payable to any person because of the operation of subsection (1).
- (3) Subsection (2) applies despite any other provision of this Act and despite any other Act or law.
- (4) In subsection (1)—
- relevant mining leases* means mining leases 5940 and 5941 over land situated in the Mareeba mining district.

334ZO Particular mineral development licences and mining leases

- (1) A mineral development licence or a mining lease granted before the commencement of this section wholly or partly in respect of relevant land for an exploration permit is taken to have been validly granted.
- (2) An application for a mineral development licence or a mining lease to the extent the application is in respect of relevant land for an exploration permit is taken to have been validly made if the application—

- (a) was lodged before the commencement of this section; and
- (b) would have complied with the Act in all respects if the relevant land had not been excluded from the exploration permit.

(3) In this section—

relevant land, for an exploration permit, means land that was excluded under a condition of the permit to the effect that land subject to native title is excluded from the permit.

Chapter 13 Administration and judicial functions

Part 1 Directions to remedy contravention

335A Power to give compliance direction

- (1) This section applies if an authorised officer reasonably believes a person—
 - (a) has contravened, or is contravening, this Act or a mandatory provision of the land access code; or
 - (b) is involved in an activity that is likely to result in a contravention of this Act or a mandatory provision of the land access code.
- (2) The authorised officer may give the person a written direction (a *compliance direction*) to take steps reasonably necessary to remedy the contravention or avoid the likely contravention.
- (3) The direction may also state—

[s 335B]

- (a) the steps the authorised officer reasonably believes are necessary to remedy the contravention or avoid the likely contravention; or
- (b) that the person must notify the authorised officer when the person has complied with the compliance direction; or
- (c) that an authorised officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the owner or occupier to check compliance with the direction.

335B Requirements for giving compliance direction

- (1) A compliance direction must state the following—
 - (a) that the authorised officer giving it believes the person given the direction—
 - (i) has contravened, or is contravening, this Act or a mandatory provision of the land access code; or
 - (ii) is involved in an activity that is likely to result in a contravention of this Act or a mandatory provision of the land access code;
 - (b) the provision the authorised officer believes is being, has been, or is likely to be, contravened;
 - (c) the reasons for the belief;
 - (d) that the person must take steps reasonably necessary to remedy the contravention, or avoid the likely contravention, within a stated reasonable period.
- (2) The direction must include, or be accompanied by, a review and appeal notice about the decisions to give the direction and to fix the period.
- (3) The direction may be given orally if—
 - (a) for any reason it is not practicable to give the direction in writing; and

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- (b) the authorised officer giving it warns the person it is an offence not to comply with the direction.
- (4) If the direction is given orally, the authorised officer must confirm the direction by also giving it in writing as soon as practicable after giving it orally.
- (5) In this section—
- review and appeal notice*, for a decision, means a written notice stating the following—
- (a) the rights of internal review and appeal under the applied provisions under section 335D;
- (b) the period in which any internal review must be started;
- (c) how rights are to be exercised;
- (d) that a stay of a decision the subject of an appeal under the applied provisions may be applied for.

335C Failure to comply with compliance direction

- (1) A person to whom a compliance direction has been given must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (2) If the direction states steps the person may take to remedy the contravention, or avoid the likely contravention, the subject of the direction, the person is taken to have complied with the direction if all the steps have been taken.
- (3) Subsection (2) does not prevent the person from complying with the direction in another way.

[s 335D]

335D Right of internal review and appeal against compliance direction

- (1) This section applies if a person is given a compliance direction.
- (2) The Petroleum and Gas (Production and Safety) Act, chapter 12, other than section 817(2), (the *applied provisions*) applies, with necessary changes, as if—
 - (a) the decision were mentioned in schedule 1, table 1 of that Act; and
 - (b) a reference in that chapter to an information notice were a reference to a review and appeal notice under section 335B.
- (3) An internal review application under the applied provisions may be made only to—
 - (a) if the compliance direction was given by an authorised officer—the chief executive; or
 - (b) if the compliance direction was given by the chief executive—the Minister.

335E Other authorised officer's powers not affected

This part does not limit or otherwise affect an authorised officer's powers under another provision of this Act.

Part 2 Conferences with eligible claimants or owners and occupiers

Division 1 Preliminary

335F Application of pt 2

- (1) This part applies if an authorised officer is given an election notice by a mining tenement holder or an eligible claimant asking for a conference.
- (2) This part also applies if—
 - (a) an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—
 - (i) that someone claiming to act under a mining tenement, or to have entered land on the tenement holder's instructions—
 - (A) is not authorised to be on the land; or
 - (B) is not complying with a provision of this Act or a condition of the mining tenement;
 - (ii) activities being, or proposed to be, carried out on the land apparently under a mining tenement (including when the activities are being, or are to be, carried out);
 - (iii) the conduct on the land of someone apparently acting under a mining tenement; or
 - (b) a mining tenement holder who is concerned about something relevant to the tenement involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or

[s 335G]

- (c) for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a mining tenement.

Division 2 Calling conference and attendance

335G Calling conference

- (1) If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the mining tenement holder and the eligible claimant (the *parties*) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.
- (2) If this part applies under section 335F(2), the authorised officer may, by notice, ask the mining tenement holder and the owner or occupier or other person with an interest in the concerns (also the *parties*) to attend a conference by the authorised officer about the concerns.
- (3) The notice must state when and where the conference will be held and what is to be discussed at the conference.

335H Who may attend conference

- (1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.
- (2) Also, with the authorised officer's approval, someone else may be present to help a person attending the conference.
- (3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.

335I What happens if a party does not attend

- (1) This section applies if a party given notice of the conference does not attend.

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- (2) The authorised officer may hold the conference even though someone given notice of it does not attend.

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See schedule 1, section 22.

- (3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.
- (4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.
- (5) If the Land Court makes the order, it must decide the amount of the costs.

Division 3 Conduct of conference

335J Authorised officer's role

- (1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.
- (2) Subject to schedule 1, section 21, the authorised officer is to decide how the conference is to be conducted.

335K Statements made at conference

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

335L Agreement made at conference

- (1) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.

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- (c) a regulation.
 - (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers.
 - (3) In this section—
signed notice means a notice signed by the chief executive.

338 When office ends

- (1) The office of a person as an authorised officer ends if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the office ends;
 - (c) the authorised officer's resignation under section 339 takes effect.
- (2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.
- (3) In this section—
condition of office means a condition under which the authorised officer holds office.

339 Resignation

An authorised officer may resign by signed notice given to the chief executive.

340 Issue of identity card

- (1) The chief executive must issue an identity card to each authorised officer.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised officer; and
 - (b) contain a copy of the authorised officer's signature; and

[s 341]

- (c) identify the person as an authorised officer under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

341 Production or display of identity card

- (1) In exercising a power in relation to a person in the person's presence, an authorised officer must—
- (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

341A Return of identity card

If the office of a person as an authorised officer ends, the person must return the person's identity card to the chief executive within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

342 Powers of authorised officers

- (1) At all times, a person who is an authorised officer may—
- (a) have full and free access to and enter any land and whilst thereon may—
 - (i) drill, dig, take cores, samples of soil, air, water or rock, make such inspections and carry out such investigations and do such other acts ordinarily

- connected with prospecting, exploring or mining as the person thinks fit;
- (ii) if the person is satisfied that a post, cairn or other thing, not being a survey mark or other thing required by any other Act not to be removed, purporting to mark or apparently marking out boundaries of land for the purposes of this Act do not relate to any existing mining claim, mining lease or application for the grant of a mining claim or mining lease duly made under this Act—remove or cause to be removed that post, cairn or other thing;
 - (iii) make such investigation and inquiry as is necessary to ascertain whether the provisions of this Act including the conditions applying to any mining tenement or other authority granted under this Act are being complied with;
- (b) stop, detain and search any vehicle or vessel used or that the person believes on reasonable grounds is being or is likely to be used for prospecting, exploring or mining;
 - (c) subject to subsection (11)—question a person found by the person in any place to ascertain whether this Act is being complied with and require a person so found to answer the questions put;
 - (d) require a person found by him or her committing an offence against this Act or who he or she believes on reasonable grounds has committed an offence against this Act or whose name and address are in the person's opinion reasonably required to state his or her full name and the address of the person's usual place of residence and, if the person suspects on reasonable grounds that a name or address so stated is false, may require evidence of the correctness thereof;
 - (e) require a person to produce to him or her any prospecting permit, exploration permit, certificate of mining claim, mineral development licence, instrument

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- of a mining lease or other authority under this Act granted and issued to that person or alleged by that person to have been granted to the person or any books, accounts, records or documents and may inspect, examine and make copies of or extracts from any permit, certificate, licence, instrument or authority or any book, account, record or document so produced;
- (f) in a case where the person is obstructed or has reasonable grounds to believe that he or she will be obstructed in the exercise of powers or authorities or the discharge of functions or duties—ask another person to help, whereupon it shall be the duty of a person so called to assist the person as required and in accordance with this Act and a person so assisting shall have the same powers and authorities as are conferred under this Act upon the person he or she is assisting;
 - (g) call to his or her aid a person who the person thinks is competent to assist in the exercise of powers and authorities or the discharge of functions and duties and a person so assisting shall have the same powers and authorities as are conferred under this Act upon the person he or she is assisting;
 - (h) use such force as is reasonably necessary in the exercise of the powers and authorities or the discharge of the functions and duties conferred or imposed upon the person by this Act;
 - (i) by order in writing—require a person who has failed to comply with this Act to take within such time as is specified such steps as are specified and to remedy those matters in respect of which noncompliance has occurred;
 - (j) exercise such other powers and authorities and discharge such other functions and duties as are prescribed.
- (2) An order pursuant to subsection (1)(i) shall not prejudice or affect in any way any proceeding or action that has been or may be taken for the failure to comply that resulted in the

order, save that the person to whom the order is given is not liable for a continuance of the failure to comply during the time specified therein.

- (3) Before a person enters a part of any place which part is used exclusively as a dwelling house the person shall, save where the person has the permission of the occupier of that part to the entry, obtain from a justice a warrant to enter.
- (4) A justice who is satisfied upon the complaint of an authorised officer that there is reasonable cause to suspect—
 - (a) that in any place an offence against this Act has been, is being or is likely to be committed;
 - (b) that there is in any place anything in respect of which an offence against this Act has been, is being or is likely to be committed;

may issue a justice's warrant directed to the complainant to enter the place named in the warrant for the purpose of exercising therein the powers conferred on an authorised officer under this Act.

- (5) A complaint made under subsection (4) shall be made on oath or affirmation and shall set out the grounds on which the suspicion of the person making the same is based.
- (6) A justice who is the chief executive or other officer of the department of the Government for the time being administering this Act is not competent to issue a warrant to which subsections (3), (4) and (8) apply.
- (7) A justice who issues a warrant pursuant to subsection (4) shall forward a copy of the warrant to the chief executive.
- (8) A warrant shall be, for the period of 1 month from the date of its issue, sufficient authority for the person named therein and all persons acting in aid of the person—
 - (a) to enter the place specified in the warrant; and
 - (b) to exercise therein the powers conferred upon the person named therein by or under this Act.

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- (9) For this section premises that are used as a dwelling house do not include the curtilage of those premises.
- (10) For the purpose of gaining entry to a place an authorised officer may call to the officer's aid such persons as the officer considers necessary and those persons, while acting in aid in the lawful exercise by the officer of the officer's power of entry, shall have a like power of entry.
- (11) Except as provided in section 328, a person is not obliged under this Act to answer any question or give any information or evidence tending to incriminate the person.

343 Seizure of minerals produced by or vehicles, machinery etc. used in unauthorised mining

- (1) If he or she believes on reasonable grounds that any mineral is being or has been mined without authority by or under this Act, an authorised officer may, without further authority, seize that mineral, vehicle, machinery, equipment or thing (the *subject property*) whereupon the subject property shall be taken to be in the custody of the authorised officer.
- (2) An authorised officer who seizes the subject property may—
 - (a) remove, dismantle and do all such things as the officer thinks necessary to transport the subject property to a place of safekeeping;
 - (b) direct that mineral so seized be deposited by the person from whom it is seized at a place of safekeeping set out in the direction;
 - (c) if the subject property is not removed to or deposited at a place of safekeeping, do all such things as are prescribed or, if not prescribed, as the officer thinks fit to show that the subject property has been so seized and is in his or her custody;
 - (d) carry out any improvement restoration the officer considers appropriate for the land on which the mineral is or has been mined as if a mining tenement had been granted for the land.

- (3) Upon an application in writing by the owner of the subject property or a person acting on the owner's behalf or claiming a right to possession of the subject property the authorised officer who has the custody of the subject property may release the subject property to the applicant.
- (4) If, upon the expiration of 3 months from the date of seizure of the subject property, the subject property is not released under subsection (3) and the subject property is not required as evidence in proceedings that have been instituted for a breach of any provision of this Act or of any other Act relating to mining alleged to have been committed by the person from whom the subject property was seized then, as soon as practicable thereafter, the authorised officer who seized the subject property shall cause to be served by post upon the owner of the subject property, if the owner can be ascertained, at the owner's last place of address known to the officer who seized the subject property notice in writing that the subject property may be collected.
- (5) The authorised officer who seized the subject property may, if the officer considers it desirable, give public advertisement to the owner in 1 or more newspapers circulating in the locality in which the subject property was seized or in other localities that the subject property may be collected.
- (6) If the subject property is required as evidence in any proceedings instituted for a breach of any provision of this Act or any other Act relating to mining and is not forfeited, the authorised officer who seized the subject property shall, upon the final determination of those proceedings give the notice or advertisement referred to in subsection (4).
- (7) If within 20 business days from the date of service or advertisement of the notice, whichever shall last occur, the owner of the subject property or a person acting on the owner's behalf or claiming a right to the possession of the subject property has not obtained possession of the subject property in accordance with the provisions of this section, the authorised officer who seized the subject property may—

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- (a) by notice published in a newspaper circulating in the locality in which the subject property was seized and, if the officer considers it desirable, in a newspaper circulating in any other locality, advertise that the officer will offer the subject property for sale at the place and time stated in the advertisement;
 - (b) at the time on the day stated in the advertisement (which day shall be not earlier than 10 business days after the date when the advertisement was first published) and at the place stated in the advertisement, offer the subject property for sale unless the owner thereof or a person acting on the owner's behalf or claiming a right to possession thereof has sooner obtained possession of the subject property in accordance with the provisions of this section.
- (8) Subject property sold pursuant to subsection (7) shall be sold by public auction unless the Minister otherwise directs.
- (9) The proceeds of the sale or disposal of the subject property shall be applied as follows—
- (a) firstly, in payment of the expenses of the sale or disposal;
 - (b) secondly, in payment of the cost of seizure of, removal of and holding the subject property and the service and advertisement of any notice served or advertised under this section;
 - (c) thirdly, in payment of the cost of any improvement restoration that is, or is likely to be, carried out under subsection (2)(d);
 - (d) fourthly, in payment of the cost of rehabilitation of land required as a result of the use of the subject property in contravention of this Act or any authority granted under this Act or any other Act relating to mining or under the Environmental Protection Act;
 - (e) fifthly, in payment of the balance of the proceeds to the owner of the subject property or, if after reasonable

inquiry, the owner can not be ascertained, to the public trustee as unclaimed moneys and the provisions of the *Public Trustee Act 1978* with respect to unclaimed moneys shall apply thereto.

- (10) Subject property in the custody of the authorised officer who seized it shall not be delivered to the owner thereof, or to another person acting on the owner's behalf or claiming a right to the possession thereof unless—
- (a) the owner or person acting on the owner's behalf or claiming a right to possession of the subject property has applied in writing signed by the owner to the authorised officer for the release of the subject property;
 - (b) the applicant has furnished proof to the satisfaction of the authorised officer of ownership or right to possession of the subject property and, in the case of the applicant being a person acting on behalf of the owner, has furnished proof to the satisfaction of the authorised officer, of the person's authority to so act;
 - (c) the applicant has paid all expenses incurred by the authorised officer and not waived pursuant to the provisions of this subsection in connection with the seizure of, removal of and holding the subject property and the service or advertisement of any notice served or advertised by the authorised officer in relation to the availability for collection or intended sale of the subject property;
 - (d) the applicant has signed a receipt for the delivery of the subject property to the applicant.
- (11) If the authorised officer who seized the subject property considers that special circumstances exist, the officer may recommend to the chief executive that the chief executive waive payment of the whole or part of the expenses referred to in subsection (10)(c).
- (12) A person who takes delivery, or obtains possession of or removes or attempts to remove from or interferes in any way with subject property which is in the custody of an authorised

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officer who seized the property except in accordance with the provisions of this section commits an offence against this Act.

(13) In this section—

subject property includes any part of the subject property.

Part 4 Access to abandoned mines

344 Definitions for pt 4

In this part—

abandoned mine means a site—

- (a) where mining or mining exploration activities have been carried out; and
- (b) for which no current mining lease or mining claim is granted.

authorised person means a person authorised by the chief executive, under section 344A, to carry out rehabilitation activities.

rehabilitation activities see section 344A.

344A Authorised person to carry out rehabilitation activities

The chief executive may authorise a person to carry out all or any of the following activities (*rehabilitation activities*) at land on which an abandoned mine exists—

- (a) investigate the condition of the land;
- (b) cap a mine shaft;
- (c) remove, or make safe, structures or equipment at or near the abandoned mine;

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- (d) clean up pollution remaining at or near the abandoned mine;
 - (e) repair erosion, or prevent further erosion, of land or vegetation at or near the abandoned mine;
 - (f) another activity at or near the abandoned mine to make it safe.

344B Entering land to carry out rehabilitation activities

- (1) This section applies to the following land—
 - (a) land (*primary land*) on which an abandoned mine exists;
 - (b) land (*adjacent land*) that is adjacent to primary land if an authorised person has no other reasonably practicable way of entering the primary land without entering the adjacent land.
- (2) An authorised person may, to carry out rehabilitation activities, enter land—
 - (a) if the carrying out of rehabilitation activities is necessary to preserve life or property—at any time; or
 - (b) otherwise—within a period of 5 business days starting on the earlier of the following days—
 - (i) the day the owner of the land is given notice of the entry under section 344C;
 - (ii) the day the occupier of the land is given notice of the entry under section 344C.
- (3) However, subsection (2) does not authorise entry to a part of the land where a person resides.
- (4) In this section—
enter includes re-enter.

[s 344C]

344C Notice of entry

- (1) An authorised person entering land under this part must give the owner and the occupier of the land written notice of the entry—
 - (a) if the carrying out of rehabilitation activities is necessary to preserve life or property—within 10 business days after the entry is made; or
 - (b) otherwise—before entering the land.
- (2) The written notice must state the following—
 - (a) when the entry was, or is to be, made;
 - (b) the purpose of the entry;
 - (c) that the authorised person is permitted under this Act to enter the land without consent or a warrant;
 - (d) the rehabilitation activities carried out or proposed to be carried out.

344D Obligation of authorised person in carrying out rehabilitation activities

An authorised person who enters land under this part—

- (a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and
- (b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

Part 5 The Land Court

363 Substantive jurisdiction

- (1) The Land Court shall have jurisdiction to hear and determine actions, suits and proceedings arising in relation to prospecting, exploration or mining or to any permit, claim, licence or lease granted or issued under this Act or any other Act relating to mining.
- (2) Without limiting the generality of subsection (1), the Land Court shall have jurisdiction to hear and determine actions, suits and proceedings with respect to—
 - (a) the right to possession of or other interest or share in any mining claim, exploration permit, mineral development licence or mining lease; and
 - (b) the rights and entitlements to minerals mined under any mining tenement or other authority granted under this Act or any other Act relating to mining and to the products of mining; and
 - (c) the area, dimensions and boundaries of land (including the surface area of land) the subject of a mining tenement; and
 - (d) any encroachment or trespass upon or interference with or damage to land the subject of a prospecting permit, mining claim, exploration permit, mineral development licence, mining lease or other authority granted under this Act or the buildings, plant, machinery or equipment thereon; and
 - (e) any matter arising between applicants or holders in relation to prospecting, exploring or mining, or arising between applicants or holders and owners of land in relation to prospecting, exploring or mining; and
 - (ea) any dispute or other matter arising between persons identified in native title protection conditions as an explorer or as a native title party, if the conditions—

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- (i) under section 25AA, are included in the conditions imposed on a prospecting permit; or
 - (ii) under section 141AA, are included in the conditions determined for an exploration permit; or
 - (iii) under section 194AAA, are included in the conditions determined for a mineral development licence; and
 - (f) any determination or review of compensation as provided for under this Act or any other Act relating to mining; and
 - (g) the enforcement of any agreement or determination as to compensation under this Act or any other Act relating to mining; and
 - (h) any assessment of damage, injury or loss arising from activities purported to have been carried on under the authority of this Act or any other Act relating to mining; and
 - (i) any application required by this Act or any Act relating to mining to be made or heard in the Land Court.
- (3) The Land Court also has jurisdiction to hear and determine actions, suits and proceedings with respect to any demand for debt or damages arising out of or made in respect of—
- (a) the carrying on of prospecting, exploring or mining;
 - (b) any agreement relating to prospecting, exploring or mining.
- (4) This section does not confer jurisdiction on the Land Court in relation to the recovery of wages or amounts owing under an industrial award or agreement.

364 Application for interim orders by remote means

- (1) Where by reason of distance, urgency or other circumstances affecting a particular case, it is impracticable for a party to a cause or matter within the jurisdiction, under this Act, of the

Land Court to make application to the Land Court for an order for the detention or preservation of any property or thing, being the subject matter of the litigation or as to which any question may arise therein, the party may make the application to the chief executive in the same manner that an application could be made to the Land Court.

- (2) Where an application is made pursuant to subsection (1) to the chief executive, the chief executive shall forthwith advise the Land Court (whether by means of telephone, radio, telex, facsimile transmission or other facility for distance communication) of the application and of all relevant details and any supporting evidence produced to the chief executive in respect of the application.
- (3) On the giving of the advice under subsection (2), the Land Court may make any order it could have made had the application been made in its presence.
- (4) Upon making an order pursuant to subsection (3) the Land Court shall forthwith inform the chief executive by like means referred to in subsection (2) of the order and the chief executive must, as soon as practicable, give each party a copy of the order.
- (5) The order must state the day and place that the order was made.

370 Jurisdiction of Supreme Court

- (1) The Supreme Court has jurisdiction to hear and determine any proceeding challenging or otherwise relating to the validity of any grant that has been made pursuant to this Act or any Act repealed by this Act or any other Act relating to mining and, notwithstanding any other Act or law, that proceeding shall be heard and determined in that court only.
- (2) It is immaterial that the Crown is not a party to the proceeding.
- (3) If the grant in question is declared by the Supreme Court to be invalid, the declaration binds the Crown and a copy of the

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judgment or order of the court in respect thereof shall be served by the party who benefits from that declaration on the chief executive within 15 business days from the date of that judgment or order.

378 Power to order deposit of mineral etc.

- (1) At any stage after proceedings, under this Act, before the Land Court have been commenced, the Land Court may, upon an application duly made by a party thereto and subject to such terms as to costs or otherwise as the Land Court thinks fit, direct a party to that proceeding having possession, custody or control of any money, mineral, chattel, ore or other thing or which may later come into the possession, custody or control of that party to deposit it in accordance with the order with such person at the place and upon the terms specified in the order to abide the determination of the proceeding or in the event of an appeal from that determination, the judgment on the appeal.
- (2) An application referred to in subsection (1) is not duly made if the Land Court is not satisfied that the applicant has given at least 12 hours notice that the applicant proposes to make the application to—
 - (a) all parties to the proceeding who may wish to oppose the application; or
 - (b) such of the parties referred to in paragraph (a) as, in the opinion of the Land Court, are sufficiently representative of all those parties.
- (3) Where an appeal is lodged against a determination of a proceeding determined by the Land Court, for the purposes of subsection (1), that proceeding is not determined until judgment on the appeal.
- (4) An order made under subsection (1) shall specify—
 - (a) the person with whom; and
 - (b) the place at which; and

- (c) the time or times within which; and
 - (d) the terms upon which;
- any money, mineral, chattel, ore or other thing specified in the order must be deposited.

380 Land Court may order survey

If, at any time before or during the hearing for a proceeding, under this Act, in the Land Court, it appears to the Land Court that it is necessary for the proper determination of the proceeding that a survey be made of any land, water, stack or other accumulation of ore, buildings or any other thing the Land Court may order any party to the proceeding as, to it, appears just to cause the survey to be made and the costs of or incidental to the survey shall be costs in the proceeding and shall be paid as the Land Court orders.

381 Power of Land Court to order surrender of minerals

- (1) The Land Court may, upon determining any proceeding before it, order that a person ordered by the Land Court to pay any amount in respect of a debt, damages or costs shall, within the time appointed by the Land Court, deliver to the party to whom payment is ordered to be made or to the Land Court itself for delivery to such party any ore or mineral in the possession of and being the property of that person in satisfaction or part satisfaction of the amount ordered to be paid and for this purpose may fix a value of that which is ordered to be delivered.
- (2) An order made under subsection (1) shall not prejudice the recovery of the amount ordered to be paid by any other process or, where delivery of ore or mineral is made in part satisfaction of the amount ordered to be paid, the recovery of the balance of that amount.

Chapter 14 Miscellaneous provisions

386J Request to applicant about application

- (1) For a relevant application under this Act, the chief executive may, by written notice, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) complete or correct the application if it appears to the chief executive to be incorrect, incomplete or defective;
 - (b) give the chief executive or another stated officer of the department additional information about, or relevant to, the application;

Example—

The application is for a mining lease. The chief executive may require a document, prepared by an appropriately qualified person, independently verifying a resource model given in the proposed mining program for the lease.

- (c) give the chief executive or another stated officer of the department an independent report by an appropriately qualified person, or a statement or statutory declaration, verifying all or any of the following—
 - (i) any information included in the application;
 - (ii) any additional information required under paragraph (b).
- (2) For subsection (1)(b), if the application is for a mining tenement, a required document may include a survey or resurvey of the area of the proposed tenement carried out by a person who is a cadastral surveyor under the *Surveyors Act 2003*.
- (3) For subsection (1)(c), the notice may require the statement or statutory declaration—
 - (a) to be made by an appropriately qualified independent person or by the applicant; and
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.

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- (4) The giving of a statement for subsection (1)(c) does not prevent the chief executive from also requiring a statutory declaration for the subsection.
 - (5) The applicant must bear any costs incurred in complying with the notice.
 - (6) The chief executive may extend the period for complying with the notice.
 - (7) In this section—
application does not include—
 - (a) an application to a court or tribunal; or
 - (aa) an EP tender; or
 - (b) an internal review application under chapter 13, part 1.

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

information includes a document.

relevant application means an application, other than an application relating to a prospecting permit.

386K Refusing application for failure to comply with request

- (1) This section applies for an application if—
 - (a) the chief executive gives a notice under section 386J for the application; and
 - (b) the period stated in the notice for complying with it has ended; and
 - (c) the request has not been complied with to the satisfaction of the chief executive.
- (2) The Minister may refuse the application.
- (3) To remove any doubt, subsection (2) applies despite another provision of this Act that provides the application must be

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granted in particular circumstances or if particular requirements have been complied with.

386L Notice to progress relevant applications

- (1) The Minister may by notice require an applicant for, or to renew, a relevant mining tenement to, within a stated reasonable period, do any thing required of the applicant under this Act or another Act to allow the application to be decided or the tenement to be granted or renewed.
- (2) However, the period for complying with the notice must be at least 20 business days after the notice is given.
- (3) The Minister may extend the period for complying with the notice.
- (4) The Minister may reject the application if the applicant does not comply with the requirement.
- (4A) This section does not apply in relation to an EP tender.
- (5) In this section—
relevant mining tenement means a mining tenement other than a prospecting permit.

386M Particular criteria generally not exhaustive

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.
- (2) To remove any doubt, it is declared that the Minister may, in making the decision, consider any other criteria the Minister considers relevant.
- (3) However, subsection (2) does not apply—
 - (a) in relation to an EP tender; or
 - (b) if the provision otherwise provides.
- (4) In this section—
criteria includes issues and matters.

386N Particular grounds for refusal generally not exhaustive

- (1) This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.
- (2) To remove any doubt, it is declared that, unless the other provision otherwise provides, the Minister may refuse the application on another reasonable and relevant ground.
- (3) This section does not apply to an EP tender.
- (4) In this section—
refuse, an application, includes refuse the thing the subject of the application.

386O Place or way for making applications, giving, filing, forwarding or lodging documents or making submissions

- (1) This section applies to any of the following under this Act—
 - (a) the making of an application;
 - (b) the giving of a document to the Minister or chief executive;
 - (c) the filing, forwarding or lodging of a document;
 - (d) the making of a submission.
- (2) The application, document or submission may be made, given, filed or lodged only—
 - (a) at the following place (the *required place*)—
 - (i) the office of the department provided for under the relevant approved form for that purpose;
 - (ii) if the relevant approved form does not make provision as mentioned in subparagraph (i) or if there is no relevant approved form—the office of the department notified on the department’s website; or
 - (b) in the way prescribed under a regulation.

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- (3) Without limiting subsection (2)(b), the way prescribed under a regulation may include to make, give, file or lodge the application, document or submission at another place.
- (4) The document may be forwarded only to the required place or in the way prescribed under a regulation.
- (5) Without limiting subsection (4), the way prescribed under a regulation may include to forward the document to another place.
- (6) This section does not apply to the following—
 - (a) the making of an application to the Land Court or the tribunal;
 - (b) the lodging of any of the following—
 - (i) a notice of appeal to the Land Court under section 86(2)(a), 282(2)(a) or 318AAZO(1);
 - (ii) a notice under section 753;
 - (iii) a report under section 761;
 - (iv) a proposed initial development plan for a lease under section 758;
 - (c) the giving of a report to the Minister under section 141(1)(e) or 194(1)(e);
 - (d) the giving of a report or other document mentioned in section 318AAH(1)(f) under that section.

386P Requirements for making application

- (1) This section applies to a purported application, other than for the grant of a prospecting permit, mining claim or mining lease or to the Land Court or the tribunal, not made under the requirements under this Act for making the application.
- (2) The chief executive must refuse to receive or process the purported application.
- (3) However, the chief executive may decide to allow the application to proceed and be decided as if it did comply with

the requirements if the chief executive is satisfied the application substantially complies with the requirements.

- (4) If the chief executive decides to refuse to receive or process the purported application, the chief executive must—
 - (a) inform the applicant of the decision; and
 - (b) refund the application fee to the applicant.
- (4A) This section does not apply to an EP tender.

387 Register to be kept

- (1) The chief executive must keep a register in which must be recorded particulars as prescribed of—
 - (a) all prospecting permits, mining claims and mining leases the applications for the grant of which were lodged under this Act; and
 - (b) applications for the grant of mining claims and of mining leases the lodgement of which is accepted under this Act; and
 - (c) dealings with a mining tenement; and
 - (d) application transfers; and
 - (e) caveats lodged under chapter 7, part 3; and
 - (f) all exploration permits and mineral development licences; and
 - (g) applications (other than EP tenders) for the grant of exploration permits; and
 - (h) applications for the grant of mineral development licences; and
 - (i) acquired land; and
 - (j) any other matters prescribed under a regulation.
- (2) The chief executive may decide the form in which the register is kept.

[s 387A]

387A Access to register

- (1) The chief executive must—
 - (a) keep the 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 notice, a document or information held in the register on payment of the fee prescribed under a regulation.
- (2) Subsection (1) is subject to section 387B.

387B 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 register, without payment of the fees prescribed under section 387A.
- (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.

387C 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 register.

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- (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—
 - (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 register permitted under this Act.
- (6) The chief executive must exclude mining tenement particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.
- (8) In this section—
- mining tenement particulars* means particulars from any instrument or information kept by the chief executive that may allow a person to identify a mining tenement to which the instrument or information relates.

[s 387D]

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.

387D Chief executive may correct register

- (1) The chief executive may correct the register if satisfied—
 - (a) the register is incorrect; and
 - (b) the correction will not prejudice any rights recorded in the register.
- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

388 Notice of change of address for service

- (1) Subsection (2) applies to a person who, under this Act, gives the Minister or chief executive (each the *official*) the person's address for service.
- (2) If the address for service changes during the time it may be required under this Act, the person must immediately notify, in the approved form, the official to whom it was given.
- (3) In this section—

address for service, for a person, means the person's address, or the name and address of someone else, for service of notices on the person.

389 Duplicate permits, leases etc.

- (1) A holder of a mining tenement who has lost the instrument of, or for, the tenement may apply in writing to the chief executive for a duplicate of the instrument.
- (2) The application shall be accompanied by the prescribed fee.
- (3) If the chief executive is satisfied that the applicant has lost the instrument and is entitled to a duplicate thereof the chief executive may issue a duplicate, endorsed accordingly, and deliver it to the applicant.
- (4) For the purposes of this Act the duplicate instrument issued under this section shall have the same effect as the original.

390 Priority of competing applications

- (1) The types of grant to which subsection (2) applies are—
 - (a) mining claims;
 - (b) exploration permits;
 - (c) mining leases.
- (2) Except as provided in sections 63, 134A, 185 and 251, an application for a type of grant that is effectively lodged prior to another application for a different type of grant in respect of the whole or part of the same land being effectively lodged shall take priority over that other application for the purpose of the consideration of the application.
- (3) For the purposes of subsection (2), an application is effectively lodged—
 - (a) in the case of an application for the grant of a mining claim or a mining lease upon the acceptance of the lodgement of the application;

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- (b) in the case of an application for the grant of an exploration permit on the day next following the acceptance of the lodgement of the application.
- (4) If the chief executive is of the opinion that the circumstances of the lodgement of an application for the grant of a mining claim and an application for the grant of a mining lease made in respect of or including the same land are such that the applications should be treated as having been lodged simultaneously, the chief executive may treat the applications as having been lodged simultaneously and shall determine their respective priorities by ballot.
- (5) The chief executive shall advise all applicants when and where the ballot is to be held.
- (6) This section does not apply to EP tenders.

391 Restriction on grants etc.

- (1) The Minister may by gazette notice—
 - (a) prohibit the grant, or applications for the grant, of mining tenements; or
 - (b) determine that a mining tenement must not be granted over an area that exceeds a specified area; or
 - (c) provide that a single person must not, at any time, be the holder (whether alone or with others) of more than a specified number of exploration permits, mineral development licences or mining leases; or
 - (d) provide that a single person must not, at any time, be the holder (whether alone or with others) of—
 - (i) mining leases the aggregate area of which exceeds a specified area; or
 - (ii) mineral development licences the aggregate area of which exceeds a specified area; or
 - (iii) exploration permits the aggregate area of which exceeds a specified area; or

- (e) require that an application for the grant of a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease be referred to any of the following bodies seeking its views on the application—
 - (i) a stated department;
 - (ii) a Commonwealth Government department;
 - (iii) a local government;
 - (iv) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*;
 - (v) a GOC.
- (2) The Minister must consider the public interest before acting under subsection (1).
- (3) A restriction or requirement under subsection (1) that applies to an area does not affect the granting or renewal of any of the following mining tenements for all or part of the area—
 - (a) a mining tenement applied for before the restriction took effect (the *prerequisite tenement*);
 - (b) a mining tenement of the same type as the prerequisite tenement applied for in the area of the prerequisite tenement;
 - (c) a higher level of mining tenement to the prerequisite tenement applied for in the area of the prerequisite tenement.
- (4) More than 1 mining tenement may be granted for the area of a prerequisite tenement under subsection (3).
- (5) However, a mining tenement mentioned in subsection (3) can not be granted for land outside the area of the prerequisite tenement.
- (6) In this section—

[s 391A]

higher level, of mining tenement to the prerequisite tenement, means—

- (a) if the prerequisite tenement is a prospecting permit—a mining claim or mining lease; or
- (b) if the prerequisite tenement is a mining claim—a mining lease; or
- (c) if the prerequisite tenement is an exploration permit—a mineral development licence or mining lease; or
- (d) if the prerequisite tenement is a mineral development licence—a mining lease.

391A Restriction on decisions or recommendations about mining tenements

- (1) This section applies if, apart from this section, a person may—
 - (a) decide to grant, vary or renew a mining tenement, other than a mining tenement for small scale mining activities; or
 - (b) recommend that a mining tenement, other than a mining tenement for small scale mining activities, be granted, varied or renewed.
- (2) However, this section does not apply to a decision or recommendation by the Land Court.
- (3) The decision or recommendation to grant, vary or renew must not be done or made unless a relevant environmental authority has been issued.
- (5) This section applies despite any other provision of this Act.
- (6) In this section—

relevant environmental authority means an environmental authority under the Environmental Protection Act for all activities authorised, or to be authorised, under the mining tenement.

391B Right of access for authorised activities includes access for rehabilitation and environmental management

If, under this Act, a mining tenement holder has the right to enter land to carry out authorised activities for the tenement, the right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

391C Small scale mining code

- (1) A regulation may make a code, for managing impacts of small scale mining activities carried out under a mining claim or exploration permit (a *small scale mining code*), that—
 - (a) states guidelines for small scale mining activities to—
 - (i) ensure the activities are carried out in an environmentally responsible way; and
 - (ii) ensure land subject to the activities is managed responsibly; and
 - (iii) minimise conflicts about land use because of the carrying out of the activities; and
 - (iv) ensure land is rehabilitated, and improvements on the land are restored to an appropriate condition, after the small scale mining activities carried out on the land are completed; and
 - (b) imposes on the mining claim or exploration permit mandatory conditions concerning the conduct of authorised activities on land.
- (2) If a mandatory provision of the small scale mining code is inconsistent with a condition of a mining claim or exploration permit, the mandatory provision prevails to the extent of the inconsistency.

392 Substantial compliance with Act may be accepted as compliance

- (1) Where this Act provides that in respect of any matter, the Governor in Council, the Minister, the chief executive, the Land Court or the tribunal may act if anything has been done in the prescribed way, but that thing has not been done in the prescribed way, the Governor in Council, the Minister, the chief executive, the Land Court or the tribunal may, if satisfied that there has been substantial compliance with the prescribed way in respect of that thing, record that fact in writing and may so act and the thing shall be deemed to have been done in the prescribed way.
- (2) Subsection (1) is subject to section 386P.

393 Applicant or holder excused for neglect or default of authorised officer

- (1) Where the holder of or an applicant for the grant of a mining tenement is required to do anything to comply with a provision of this Act and the holder or applicant proves to the satisfaction of the Minister that—
 - (a) the holder or applicant had been unable to do that thing as prescribed by reason of the neglect or default of the Minister, chief executive, Land Court, tribunal or an authorised officer or of circumstances over which the holder or applicant did not have any control; and
 - (b) the holder or applicant has done all that the holder or applicant could to comply with that provision, whether or not within any time prescribed therefor;

the Minister may determine in writing that the holder or applicant has complied with that provision and the holder or applicant shall be deemed to have complied with that provision accordingly.

- (2) A determination made under subsection (1) may be conditional upon the holder or applicant complying with any specified conditions.

394 Declaration of State forests etc. over land subject to grants

- (1) For the purposes of setting apart and declaring a State forest, timber reserve or forest entitlement area under the *Forestry Act 1959*, Crown land that is in the area of an exploration permit shall be Crown land within the meaning of that Act.
- (2) Prior to taking action to set apart and declare Crown land as a State forest, timber reserve or forest entitlement area under the *Forestry Act 1959* which land is in the area of a mining claim, mineral development licence or mining lease or an application therefor, the views of the Minister shall be obtained and taken into account and, if the Minister agrees, that land shall be Crown land within the meaning of the *Forestry Act 1959*.
- (3) The agreement of the Minister may be subject to compliance with specified conditions.

395 Act's application to holder of fossickers licence

A holder of a fossickers licence under the *Fossicking Act 1994* does not need a prospecting permit or mining claim to fossick under the licence.

396 Application of other Acts

Except as otherwise provided in this Act or any other Act relating to mining, the provisions of the *Recreation Areas Management Act 2006* or of any other Act shall not operate to restrict the entry of persons on land under the authority of any mining tenement or other authority granted under this Act or any other Act relating to mining.

396A Transfer of coal exploration or production well to petroleum tenure holder

- (1) Subsection (3) permits, in particular circumstances, the transfer of a coal exploration or production well by a mining tenement holder.

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- (2) A purported transfer of a coal exploration or production well is of no effect unless—
 - (a) the transfer is permitted under subsection (3); and
 - (b) the requirements under subsection (3) for making the transfer have been complied with.
- (3) The mining tenement holder may transfer the coal exploration or production well to the holder of a petroleum tenure if—
 - (a) it is in the area of the mining tenement and the petroleum tenure; and
 - (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged.
- (4) If the well is transferred under subsection (3), any obligation the transferor had under this Act or another law in relation to the coal exploration or production well ceases.
- (5) In this section—

coal exploration or production well means a well or drill hole drilled and authorised under this Act to—

- (a) explore for coal or coal seam gas; or
- (b) mine or produce coal or coal seam gas; or
- (c) monitor the mining or production of coal or coal seam gas; or
- (d) monitor the impacts of an activity mentioned in paragraphs (a) to (c).

transfer, of a coal exploration or production well means a transfer of—

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

397 Limitation of owner's or occupier's tortious liability for authorised activities

- (1) This section applies to an owner or occupier of land in the area of a mining tenement if—
 - (a) someone else carries out an authorised activity for a mining tenement on the land; or
 - (b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a mining tenement.
- (2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.
- (3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.
- (4) This section applies—
 - (a) despite any other Act or law; and
 - (b) even though this Act or the mining tenement prevents or restricts the carrying out of the activity as an authorised activity for the mining tenement.
- (5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

397A Duty to avoid interference in carrying out authorised activities

A person who carries out an authorised activity for a mining tenement must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

[s 397B]

397B Obstruction of mining tenement holder

- (1) A person must not, without reasonable excuse, obstruct a mining tenement holder from—
 - (a) entering or crossing land to carry out an authorised activity for the mining tenement if schedule 1, parts 2 to 6, to the extent the parts are relevant, have been complied with in relation to the entry; or
 - (b) carrying out an authorised activity for the mining tenement on the land.

Maximum penalty—500 penalty units.

- (2) If a person has obstructed a mining tenement holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—
 - (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
 - (b) the holder considers the person's conduct is an obstruction.

- (3) In this section—

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

398 Delegation by Minister and chief executive

- (1) The Minister or the chief executive may delegate his or her functions under this Act to an appropriately qualified officer or employee of the department.
- (2) However, the following functions of the Minister can not be delegated—
 - (a) granting a mining lease;
 - (b) renewing a mining lease.

- (3) In this section—

function includes power.

399 Mode of service of documents

- (1) A notice or other document required by this Act to be given or served by a holder of, or applicant for the grant of, a mining tenement to an owner of land shall be duly given or served if—
 - (a) it is served personally upon the owner; or
 - (b) it is sent by registered post to the place of residence or business of the owner last known to the holder or applicant.
- (2) Except as provided in subsection (1), a direction, notice, order or other document required or authorised by this Act to be given or served upon any person by the Minister, Land Court, tribunal authorised officer or other person shall be duly given or served if—
 - (a) it is served personally upon the person to whom it is directed; or
 - (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives or serves it; or
 - (c) it is sent by registered post to the place of residence or business of the person to whom it is directed last known to the person who gives or serves it.
- (3) Where this Act in respect of a matter requires or authorises a person's name and address to be specified then for the purpose of service of any direction, notice, order or other document in respect of that matter the last address of that person recorded in the register in respect of that matter shall be deemed to be the person's place of residence or business last known to the person so giving or serving.
- (4) Where this Act in respect of a matter requires or authorises the name and address for service of a person upon whom any notice may be served on behalf of another person or other persons to be specified, then service upon the person so specified shall be deemed to be service upon the other person or other persons.

[s 400]

(5) In this section—

registered post means a type of post that requires the recipient's signature as proof of receipt.

400 Acting in aid of authorised officer

Whenever an authorised officer is empowered or required by this Act to cause any act to be performed it shall be lawful for any person to perform such an act under the oral authority of the authorised officer where the act is performed in his or her presence or under the written authority of the authorised officer where the act is performed in his or her absence.

401 Protection against liability

No act, omission, thing or decision done or made by the Minister, the chief executive, the Land Court, the tribunal, an authorised officer or anyone else acting under the authority of any of those persons as provided by this Act—

- (a) for the purpose of giving effect to any provision of this Act; or
- (b) purporting to be for the purpose of giving effect to any provision of this Act and done or made in good faith and without negligence;

shall render the Crown, the Minister, the chief executive, the Land Court, the tribunal, the authorised officer or other person liable at the suit of any person.

401A Protection against liability as condition of approval

- (1) This section applies if the holder of a mining tenement, granted after 1 January 1994, applies for an approval under chapter 7, part 1, division 3.
- (2) As a condition of the grant of the approval, the Minister or chief executive may require any or all of the parties for the mining tenement—

- (a) to waive any right to make a claim against the State because of a relevant matter; or
 - (b) to agree to keep the State, Minister or chief executive harmless against loss arising out of a claim made by anyone because of a relevant matter.
- (3) This section is taken to have commenced on 1 January 1994.
- (4) In this section—

claim includes any action, proceeding and demand.

holder of a mining tenement that is a mining lease includes an applicant for the mining lease.

mining tenement means—

- (a) a mining claim, exploration permit, mineral development licence or mining lease; or
- (b) an interest in a mining claim, exploration permit, mineral development licence or mining lease.

parties, for a mining tenement, means the following—

- (a) the holder of the mining tenement;
- (b) for an approval to transfer the mining tenement—the proposed transferee;
- (c) for an approval to mortgage the mining tenement—the proposed mortgagee;
- (d) for an approval to sublease the mining tenement—the proposed sublessee;
- (e) if the mining tenement is subject to a mortgage—the mortgagee.

relevant matter means—

- (a) the existence of native title; or
- (b) a claim or decision that native title to any land in the area of the mining tenement exists; or

[s 402]

- (c) a claim or decision that the grant of the mining tenement, or an approval under chapter 7, part 1, division 3, is invalid because of—
 - (i) the existence of native title; or
 - (ii) a claim or decision that native title to any land in the area of the mining tenement exists; or
 - (iii) the *Native Title Act 1993* (Cwlth); or
 - (iv) any other law relating to native title; or
- (d) any action taken under the mining tenement by the holder of the mining tenement, or any person acting for or with the authority of the holder, is unlawful or unauthorised because of—
 - (i) the existence of native title; or
 - (ii) a claim or decision that native title to any land in the area of the mining tenement exists; or
 - (iii) the *Native Title Act 1993* (Cwlth); or
 - (iv) any other law relating to native title.

402 Offences with respect to unauthorised mining etc.

- (1) A person shall not—
 - (a) enter or be upon land to carry on prospecting, exploration or mining unless the person is the holder of the relevant authority granted pursuant to this Act or is otherwise duly authorised under this Act or any other Act relating to mining;
 - (b) employ or suffer any other person to enter or be upon land to carry on prospecting, exploration or mining unless that other person is the holder of the relevant authority granted pursuant to this Act or is otherwise duly authorised under this Act or any other Act relating to mining;
 - (c) stay upon or erect any structure, including a residence, on land for purposes associated with prospecting,

- exploring or mining unless the person is duly authorised under this Act or any other Act relating to mining;
- (d) carry on mining operations upon or remove mineral or ore from land unless the person is duly authorised under this Act or any other Act relating to mining;
 - (e) in a mining district or part of a mining district the subject of a regulation, use machinery or equipment for the purpose of prospecting, exploring or mining which under a regulation has been declared shall not be used for that purpose.

Note—

This provision is an executive liability provision—see section 412A.

- (2) A person found on land contravening any provision of subsection (1) may, whether or not the person is prosecuted for an offence, be ejected from that land using such force as is necessary for that purpose, by an authorised officer or anyone else helping the authorised officer.

403 Offences regarding land subject to mining claim or mining lease

- (1) A person shall not—
 - (a) enter or be upon land; or
 - (b) use or occupy land; or
 - (c) erect any building or structure on or make any other improvement to land;that is the subject of a mining claim or the surface area of a mining lease unless—
 - (d) the person is authorised by or under this Act, any other Act relating to mining, the GHG storage Act or the Geothermal Act in that regard; or
 - (e) the person is the owner of the land or is authorised in that behalf by the owner and, in either case, the person has the consent of the holder of the mining claim or, as the case may be, mining lease.

[s 404]

Note—

This provision is an executive liability provision—see section 412A.

- (2) Subsection (1)(a) shall not operate to prevent a police officer or an inspector or other person appointed or authorised under any Act or law to enter land for the purpose of carrying out duties from so entering and carrying out those duties.

404 Offence to resist bailiff etc.

A person shall not—

- (a) assault, resist, obstruct or attempt to obstruct an authorised officer or bailiff engaged in executing a duty or exercising powers for the purposes of this Act or of any other Act relating to mining;
- (b) forcibly or clandestinely retake or attempt to retake possession of land from which the person has been removed pursuant to this Act or of any part of that land;
- (c) resist or wilfully obstruct any person in the exercise of rights under a determination of the Land Court or engaged in putting such a determination into effect;
- (d) assault any person in whose favour a determination of the Land Court has been made on account of that determination.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

404A Distance of excavation from railway works

- (1) This section applies if railway works for a railway are in, on or near the area of a mining claim or mining lease.
- (2) The holder of the mining claim or mining lease must not excavate the land less than 12m horizontally, or 15m vertically, from the railway works.

Maximum penalty—200 penalty units.

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- (3) However, subsection (2) does not apply if the holder—
- (a) has written consent from the chief executive officer of the railway manager for the railway; and
 - (b) has lodged the consent with the chief executive.
- (4) In this section—

railway manager, for the railway, has the meaning given by the *Transport Infrastructure Act 1994*.

railway works, for a railway, means works erected or placed for the railway, and includes, for example, a bridge, culvert, cutting, drain, embankment or pier.

404B Interference with particular things

- (1) A person must not, unless the person has a reasonable excuse, interfere with any of the following—
- (a) a post, cairn of stones or other thing (a *boundary marker*), used for marking out the boundary of the part of the area to which an application for a mining claim or mining lease relates;
 - (b) a mining claim application certificate or certificate of public notice placed, under section 64B(2)(a) or 252B(1)(a), on a post or cairn of stones;
 - (c) a number (a *marked number*) marked or engraved, under section 64B(2)(b) or 252B(1)(b), on a post or cairn of stones;
 - (d) a survey mark placed on the part of the area to which an application for a mining claim, mineral development licence or mining lease relates.

Maximum penalty—200 penalty units.

- (2) For subsection (1), it is a reasonable excuse for a person to interfere with a boundary marker, certificate of public notice or marked number, if the marker, certificate or number is no longer required under this Act.
- (3) In this section—

[s 404C]

interfere with, a boundary marker, certificate of public notice, marked number or survey mark, includes damage, destroy or remove the marker, certificate, number or mark.

404C Information requirements for holders of mining tenements

- (1) The chief executive or an authorised officer may, by giving a holder of a mining tenement a notice, require the holder to provide information about the tenement, activities carried out under the tenement or production or sales information relating to the tenement.
- (2) The notice must state—
 - (a) the information that must be provided; and
 - (b) how the information must be provided; and
 - (c) the day by which the information must be provided.
- (3) Subject to section 342(11), the holder must comply with the notice.
Maximum penalty—200 penalty units.
- (4) The chief executive may—
 - (a) use the information to produce statistics and other data; and
 - (b) publish the statistics and other data produced under paragraph (a).
- (5) However, the use or publication mentioned in subsection (4) must not relate to information that is—
 - (a) exempt information under the *Right to Information Act 2009*; or
 - (b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4.

404D False or misleading document

- (1) A person must not give the chief executive or an authorised officer (the *recipient*) a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

Notes—

- 1 This provision is an executive liability provision—see section 412A.
 - 2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.
- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the recipient, to the best of the person’s ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

404E Interference with road

- (1) A person must not perform a mining activity in a way that obstructs a road, unless the mining activity is expressly authorised under a mining tenement.

Maximum penalty—200 penalty units.

- (2) A person must not, in performing a mining activity, undermine a road in a way that endangers any person using, or likely to use, the road.

Maximum penalty—200 penalty units.

- (3) In this section—

mining activity means an activity for the purpose of mining and includes, for example—

[s 405]

- (a) depositing earth or material; and
- (b) disturbing the surface of the ground; and
- (c) erecting works; and
- (d) sinking a shaft.

405 Directions to be complied with

- (1) A person must comply with a direction given to, or a requirement made of, the person by an authorised officer under this Act, unless the person has a reasonable excuse.

Maximum penalty—1500 penalty units.

- (2) This section does not apply if the direction is a compliance direction.

Note—

For compliance directions, see section 335C.

406 Land Court may review direction or requirement

- (1) A person dissatisfied with the following may, if no other right of appeal against the direction or requirement is given under this Act, apply in writing to the Land Court for a review of the direction or requirement—

- (a) a direction or requirement given or made by an authorised officer;
- (b) a road use direction.

- (2) The application must—

- (a) set out the grounds for review; and
- (b) be filed.

- (4) The Land Court must review the direction or requirement and may make any inquiry the Land Court considers appropriate to help the Land Court reach a decision.

- (5) The Land Court may—

- (a) confirm the direction or requirement; or

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- (b) amend the direction or requirement; or
 - (c) revoke the direction or requirement.
- (6) If the Land Court amends the direction or requirement, the Land Court's decision is taken to be the direction or requirement of the authorised officer.
- (7) The Land Court must notify the decision to—
- (a) the person dissatisfied; and
 - (b) the authorised officer who gave or made the direction or requirement.

407 Minister may require survey

- (1) Upon the request in writing of the Minister given at any time, the applicant for the grant of or holder of a mining claim, exploration permit, mineral development licence or mining lease shall have the area of the permit, licence or lease, or any part of the area, specified by the Minister surveyed or further surveyed as indicated in the request.
- (2) The area, or the part of the area, must be surveyed by a cadastral surveyor.
- (3) Liability at law shall not attach to the Crown, the Minister or any officer of the department of the Government for the time being administering this Act for any error or inaccuracy in a survey or plan of survey carried out by a cadastral surveyor for the purpose of this section or for anything done or omitted to be done on the assumption that the survey or plan was accurate.
- (4) The applicant or holder to whom a request is made under subsection (1) shall incur and be liable to pay all costs associated with the work carried out by a cadastral surveyor under this section.

408 Surveyor not to have interest

- (1) A cadastral surveyor who holds or is entitled (directly or indirectly) to the benefits of any share or interest in a mining

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claim, exploration permit, mineral development licence or mining lease or in an application for the grant of any of them shall not carry out a survey of the area of the permit, licence or lease, or any part of the area, for the purposes of this Act.

- (2) A cadastral surveyor who has an entitlement or expectation of entitlement to share in profits of a public company which company is entitled to the benefits (directly or indirectly) of any share or interest referred to in subsection (1) does not have a share or interest referred to in subsection (1).

409 Removal orders

- (1) Where a person is alleged to be in occupation of or upon any land, or to have erected or possess or control any building or structure or to have made any other improvement to land that is the subject of a mining claim or the surface area of a mining lease, without any authority that the person is required to have by this Act or any other Act relating to mining or in contravention of this or that Act, upon the application of—
- (a) an authorised officer; or
 - (b) a police officer; or
 - (c) a person who claims to be entitled to occupy that land; or
 - (d) a holder of any authority granted under this Act or any other Act relating to mining in respect of that land (other than a prospecting permit, exploration permit or mineral development licence);

that person may be summonsed to appear before the Land Court at a time and place therein named to show cause why the person should not be removed from that land or ordered to remove any building, structure or other improvement.

- (2) If a person summonsed pursuant to subsection (1) fails to appear at the time and place specified or having appeared fails to show sufficient cause to the satisfaction of the Land Court, the Land Court may order—

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- (a) the removal of the person summonsed from the land in question;
 - (b) the removal, disposal or destruction of any building, structures or other improvements erected on or made to the land in contravention of this Act or any other Act relating to mining;
 - (c) the removal, seizure or disposal of any machinery or equipment upon the land that is or is capable of being used in contravention of this Act or of any other Act relating to mining and is not lawfully upon that land.
- (3) An order made pursuant to subsection (2) may direct the person summonsed to appear to—
- (a) remove himself or herself from the land in question; or
 - (b) remove, dispose of or destroy buildings, structures or other improvements; or
 - (c) remove machinery or equipment;
- forthwith or within a time specified in the order and may further direct that if action referred to in paragraph (b) or (c) specified to be taken in the order is not taken in the time specified, an authorised officer and all persons acting under the authorised officer's direction, using such force as is necessary, may enter upon the land and do all things necessary to seize and dispose of buildings, structures, improvements, machinery and equipment specified in the order.
- (4) Anything seized by an authorised officer pursuant to subsection (3) shall be forfeited to and becomes the property of the Crown and shall be disposed of in such manner as the Minister determines.
- (5) At the time of making an order pursuant to subsection (2) or at any later time, the Land Court may issue a warrant addressed to the person who commenced proceedings and to all police officers requiring the appropriate action to be taken and the warrant shall be sufficient authority for that person or any police officer to execute the warrant according to its tenor using such force as is necessary for the purpose.

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- (6) The costs reasonably incurred by an authorised officer in taking any action under this section shall be a debt due and owing to the Crown by the person who failed to take the action ordered by the Land Court and may be recovered in the Land Court.
- (7) In an action under subsection (6) for the recovery of a debt due to the Crown, the production to the Land Court of a certificate by the chief executive certifying the amount of that debt shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the debt and the amount thereof.

410 Certain interests not interests for certain purposes

For the purposes of this Act a person who holds or becomes entitled (directly or indirectly) to the benefits of any interest in a mining claim, exploration permit, mineral development licence or mining lease by virtue of—

- (a) the person being a beneficiary in a deceased estate; or
- (b) the person entitlement to share in profits of a public company;

does not hold an interest in the mining claim, exploration permit, mineral development licence or mining lease.

411 Indemnity against liability

- (1) Neither the Crown, an authorised officer, police officer nor any other person who acts or purports to act under the authority of section 342(10), 343 or 344A shall be liable to pay damages or compensation for loss or injury suffered on account of anything done or omitted by any person acting pursuant to any provision of section 342(10), 343 or 344A or purporting to act bona fide and without negligence for the purposes of that provision.
- (2) An authorised officer, police officer or any other person who acts or purports to act under the authority of section 342(10) or 343 shall not be criminally liable on account of anything

done pursuant to any provision of section 342(10) or 343 or purportedly pursuant to any such provision bona fide and without negligence for the purposes of that provision.

412 Offences and recovery of penalties etc.

- (1) A person who contravenes or fails to comply with any provision of this Act, other than a provision of the native title provisions, commits an offence against this Act and, save where a specified penalty is otherwise prescribed, is liable to a penalty of 200 penalty units or to imprisonment for 12 months.
- (2) A proceeding for an offence against this Act may be instituted in a summary way under the *Justices Act 1886*.
- (3) All moneys payable under this Act, other than by way of a penalty (whether for an offence, or for a breach of the conditions of a mining tenement or other authority under this Act, or otherwise) and not recovered by way of utilisation of any security deposit may be recovered as a debt.

412A Liability of executive officer—particular offences committed by company

- (1) An executive officer of a company commits an offence if—
 - (a) the company commits an offence against an executive liability provision; and
 - (b) the officer did not take all reasonable steps to ensure the company did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

- (2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

[s 412A]

- (a) whether the officer knew, or ought reasonably to have known, of the company's conduct constituting the offence against the executive liability provision; and
 - (b) whether the officer was in a position to influence the company's conduct in relation to the offence against the executive liability provision; and
 - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the company has been proceeded against for, or convicted of, the offence against the executive liability provision.
- (4) This section does not affect any of the following—
- (a) the liability of the company for the offence against the executive liability provision;
 - (b) the liability, under section 412B, of the executive officer for the offence against section 404D(1);
 - (c) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the company, for the offence against the executive liability provision.
- (5) In this section—
- executive liability provision*** means any of the following provisions—
- section 334C(1)
 - section 402(1)
 - section 403(1)
 - section 404D(1).

executive officer, of a company, means a person who is concerned with, or takes part in, the management of the company, whether or not the person is a director or the person's position is given the name of executive officer.

412B Executive officer may be taken to have committed offence

- (1) If a company commits an offence against a deemed executive liability provision, each executive officer of the company is taken to have also committed the offence if—
 - (a) the officer authorised or permitted the company's conduct constituting the offence; or
 - (b) the officer was, directly or indirectly, knowingly concerned in the company's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the company has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
 - (a) the liability of the company for the offence against the deemed executive liability provision;
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the company, for the offence against the deemed executive liability provision.
- (4) However, this section does not apply to the company's offence to the extent it involves a contravention relating to a royalty prescribed in respect of a mineral.

Example for subsection (4)—

a royalty return lodged by the company containing information that is known to be false or misleading in a material particular

- (5) In this section—

deemed executive liability provision means any of the following provisions—

 - section 20(5)
 - section 335C(1)
 - section 404
 - section 404D(1)

[s 413]

- schedule 1, part 2, division 1, section 5(1)
 - schedule 1, part 2, division 1, section 5(2)
 - schedule 1, part 2, division 1, section 5(3)
 - schedule 1, part 2, division 2, section 10(1).
- executive officer*, of a company, see section 412A(5).

413 Evidentiary provision

- (1) This section applies to a proceeding under this Act.
- (2) The appointment or power of the chief executive or an authorised officer must be presumed unless a party, by reasonable notice, requires proof of—
 - (a) the appointment; or
 - (b) the power to do anything under this Act.
- (3) A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by a person mentioned in subsection (3), and stating any of the following matters is evidence of the matter—
 - (a) a stated document is—
 - (i) an authority or a copy of an authority; or
 - (ii) an order, direction, requirement or decision, or a copy of an order, direction, requirement or decision, given or made under this Act; or
 - (iii) a notice, or a copy of a notice, given under this Act; or
 - (iv) a record, or a copy of a record, kept under this Act;
 - (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or a stated authority;

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- (c) a stated authority was or was not in force on a stated day or during a stated period;
 - (d) on a stated day, a stated authority terminated or was surrendered;
 - (e) on a stated day, a stated person was given a stated notice, order, requirement or direction under this Act;
 - (f) a stated fee or other amount is payable by a stated person to the State and has not been paid;
 - (g) anything else prescribed under a regulation.
- (5) A certificate purporting to be signed by the chief executive of the department within which the *Land Act 1994* is administered, stating things about stated land that are material to classifying the land as being or not being occupied land, is evidence of the things stated.
- (6) In this section—
- authority*** means—
- (a) a prospecting permit; or
 - (b) a mining claim; or
 - (c) an exploration permit; or
 - (d) a mineral development licence; or
 - (e) a mining lease.

414 Failure to supply information constitutes noncompliance with Act

Where a provision of this Act relating to an application that may be made under this Act provides for a request that may be made to the applicant to supply any further information, the failure to supply the information within the time provided therefor shall be deemed to be a failure to comply with the requirements of this Act that apply in respect of the application.

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415 Copies of decisions to be sent to chief executive

Upon the making of any decision or other order by any court or tribunal exercising jurisdiction in Queensland upon any matter relating to prospecting, exploring or mining or to this Act or any other Act relating to mining, the registrar or other proper officer of the court or tribunal performing the duties of a registrar shall forthwith forward a copy of that decision or order to the chief executive.

416 Rights independent of this Act preserved

Save in relation to compensation expressed to be payable by sections 85, 86, 125, 281, 282, 317 and 334ZM, the provisions of this Act shall not be construed to abrogate or prejudice any right had by any person independently of this Act to recover damages or obtain any other remedy in respect of damage or injury suffered or loss incurred by the person by reason of prospecting, exploring or mining.

416A Approval of forms

- (1) The chief executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

416B Practice manual

- (1) The chief executive may keep, in the way the chief executive considers appropriate, a manual (however called) about mining tenement administration practice to guide and inform persons dealing with the department.
- (2) The manual may include—
 - (a) directions about—
 - (i) what information, documents or instruments (*material*) a person may or must give; and

Examples—

- 1 A direction may state what material may be included in statement under section 133(f)(ii) specifying an applicant's technical resources or financial resources.
 - 2 A direction may state acceptable methods for section 246 (Description of mining lease).
 - 3 If a mining tenement applicant gives quarterly reports to the Australian Securities Exchange (ASX Limited (ACN 008 624 691)), a direction may require the applicant to give the applicant's last 2 quarterly reports provided to that exchange.
 - (ii) how or when requested material must be given; and
 - (iii) the format of requested material; and
- (b) practices to ensure there is consistency and efficiency in mining tenement administration processes.
- (3) 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) the person gives the information—
 - (i) at the place or in the way permitted under the manual; or
 - (ii) at the place or in the way the information would be required to be given under section 386O if the information were a document;
- the person is taken to have given the official the information for the purpose.
- (4) The chief executive must—
- (a) keep a copy of the manual and a record (however called) of each part of the manual, including the dates when each part was published or superseded; and
 - (b) make the manual and the record available to the public in the way the chief executive considers appropriate.

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- (5) Without limiting subsection (4), the chief executive must ensure an up-to-date copy of the manual and the record are available to be read free of charge—
 - (a) on the department’s website; and
 - (b) if information relates to a particular application—at the department’s office where the application was lodged.

417 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following matters—
 - (a) the fees to be paid under this Act;
 - (b) the amounts or rates or methods of calculation of amounts of the annual rentals payable in respect of mining claims, exploration permits, mineral development licences and mining leases which in respect of each such type of grant may vary according to the respective areas or upon such other criteria as are specified in the regulations;
 - (c) the identification (by pegging, surveying or otherwise) of the area of any mining claim, exploration permit, mineral development licence or mining lease, granted or any application therefor under this Act;
 - (d) the conditions which shall and conditions which may be imposed in respect of any mining tenement or other authority under this Act;
 - (e) the making and content of statements under section 245(1)(o)(iii);
 - (f) matters the chief executive must consider in deciding whether or not to accept a statement under section 245(1)(o)(iii);
 - (g) the location of mine workings at minimum distances from public or private roads or railways;
 - (h) the disposal of coal seam gas;

- (i) drilling, completing and abandoning drill holes, and hazard reporting;
- (j) the protection from injury or unlawful removal of any improvements, machinery, plant or equipment situated on any land in the area of a mining claim, mineral development licence or mining lease and of any races, drains, dams, reservoirs, stored water, pegs, posts, fences, notices or other things used in connection with mining;
- (ja) the protection from obstruction of races, drains, dams, reservoirs, channels and watercourses used in connection with mining;
- (k) the powers and duties of authorised officers and all other persons whatsoever in the discharge of their functions for the purposes of this Act;
- (l) the amount or rates or methods of calculation of royalty to be paid under this Act and the time and manner of its assessment and payment, the collection and enforcement of payment;
- (m) the manner of making and lodging royalty returns, documents and statements and the keeping of records and books of accounts;
- (n) the furnishing of information, reports, returns, documents and statements for the purposes and by the persons specified in the regulations;
- (o) the medium and format (whether by electronic or digital means or otherwise) by which information shall be supplied;
- (p) the particulars to be recorded in the register and the examination or provision of particulars from the register and the prescribing of the fees payable in respect thereof;
- (q) penalties for a contravention or failure to comply with any regulation;

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- (r) the way an application, document or submission must be made, given, filed, forwarded or lodged for section 386O(2)(b) or (4), or the way a report must be given for section 141(1)(e), 194(1)(e) or 318AAH(1)(f), including, for example—
 - (i) practices and procedures for lodgement of applications and other documents; and
 - (ii) methods for acknowledging receipt of documents; and
 - (iii) methods for acceptance of the lodgement of documents; and
 - (iv) the time at which a document is taken to have been lodged, but only to the extent that this Act does not provide otherwise;
 - (s) requiring lodgement of a hard copy of the application, document or submission.
- (3) A regulation may constitute a contravention or failure to comply with a regulation or an order of a court a continuing offence and impose a penalty that it is to be calculated by reference to the length of time the offence continues notwithstanding that the total penalty so calculated would exceed the maximum pecuniary penalty prescribed by section 412.
- (4) In this section—
report includes, for prescribing the way a report must be given for section 318AAH(1)(f), another document mentioned in that section.

Chapter 15 Transitional provisions

Part 1 General transitional provision

723AA References to repealed Acts

A reference in an Act or document to the following Acts is taken to be a reference to this Act—

- Mining Act 1898 62 Vic No. 24
- Mining Act 1968 No. 51.

Part 2 Transitional provisions before Mines Legislation (Streamlining) Amendment Act 2012

Note—

This Act, including this chapter, was amended by the *Mines Legislation (Streamlining) Amendment Act 2012*, chapter 4 to convert parts into chapters, divisions into parts and subdivisions into divisions and to relocate and renumber particular provisions. Cross-references to provisions of this Act appearing in this part have not been updated and remain as they were immediately before the conversion, relocation and renumbering.

Division 1 Transitional provisions for Act No. 27 of 1998

723 At Risk agreement conditions

- (1) This section applies to the following—

[s 724]

- (a) a mining lease granted under the repealed Mining Act 1968, No. 51;
 - (b) a mineral development licence or mining lease granted before the commencement of the *Mineral Resources Amendment Act 1998*.
- (2) To remove doubt, a condition contained in the licence or lease requiring the holder to comply with the At Risk agreement is and always was a valid condition.

724 Application of Mineral Resources Amendment Act 1998

- (1) This section applies to the following if they were subject to a condition requiring the holder to comply with the At Risk agreement—
- (a) a mining lease granted under the repealed *Mining Act 1968*;
 - (b) a mineral development licence or mining lease granted before the commencement of the *Mineral Resources Amendment Act 1998*.
- (2) To remove doubt, sections 194A and 278A, inserted by the *Mineral Resources Amendment Act 1998*, apply to the lease or licence.

Division 2 Transitional provisions for Act No. 38 of 1998

725 Application of div 2

- (1) This division applies to an application if—
- (a) it is an application for—
 - (i) the granting of a mining tenement; or
 - (ii) an approval relating to a mining lease; and

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- (b) the application was lodged before the native title provisions start day for the application; and
 - (c) the application is still current; and
 - (d) immediately before the native title provisions start day for the application—
 - (i) if paragraph (a)(i) applies—the granting of the mining tenement would have been an act to which the right to negotiate provisions applied; or
 - (ii) if paragraph (a)(ii) applies—the approval would have been an act to which the right to negotiate provisions applied.
- (2) However, this division does not apply to an application relating to a mining tenement if a notice under section 29 of the Commonwealth Native Title Act in relation to the act the subject of the application, required to be given as part of complying with the right to negotiate provisions, was given before the native title provisions start day for the application.
- (3) The Minister may by gazette notice notify, in relation to an application, a native title provisions start day.
- (4) The Minister, in notifying the native title provisions start day—
- (a) must have regard to when the native title provisions relevant to the application start to have application; and
 - (b) accordingly, is not stopped from notifying as the native title provisions start day a day that is earlier than the day the gazette notice is published.

726 Definitions for div 2

In this division—

approval has the meaning given in section 696.

native title provisions start day, for an application, means the native title provisions start day notified in relation to the application under section 725(3) and (4).

[s 727]

notification commencement day, for an application, means the notification commencement day advised for the application under section 727.

727 Giving advice of notification commencement day

- (1) The mining registrar must give a notice to—
 - (a) the applicant under each application for the granting of a mining claim or mining lease, advising the applicant of the notification commencement day for the application; and
 - (b) the applicant under each application for an approval relating to a mining lease, advising the applicant of the notification commencement day for the application.
- (2) The chief executive must give a notice to the applicant under each application for the granting of an exploration permit or mineral development licence, advising the applicant of the notification commencement day for the application.

728 Existing prospecting permit applications

- (1) This section applies to an application if—
 - (a) the application is for the granting of a prospecting permit; and
 - (b) the granting of the prospecting permit is an act to which part 13 applies.
- (2) Subsection (3) applies to the giving of the application notice under section 431, instead of section 431(2).
- (3) The notice must be given no later than—
 - (a) 2 months after the native title provisions start day for the application; or
 - (b) if, under section 432, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.

729 Existing mining claim applications

- (1) This section applies to an application for the granting of a mining claim.
- (7) If part 17, division 4 is to be applied to the granting of the mining claim, subsection (8) applies to the giving and publication of notice under section 652, instead of section 652(3).
- (8) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than—
 - (a) 4 months after the notification commencement day for the application; or
 - (b) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

730 Existing exploration permit applications

- (1) This section applies to an application for the granting of an exploration permit.
- (2) The chief executive must ask the applicant to nominate which of the following the applicant now seeks to be granted—
 - (a) a low impact exploration permit under part 15;
 - (c) a high impact exploration permit under part 15, for the granting of which part 15, division 4 applies.
- (3) If the applicant nominates a low impact exploration permit, subsection (4) applies to the giving of the application notice under section 486, instead of 486(2).
- (4) The notice must be given no earlier than the notification commencement day for the application, and no later than—
 - (a) 2 months after the notification commencement day for the application; or

[s 731]

- (b) if, under section 487, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.
- (7) If the applicant nominates a high impact exploration permit, and part 17, division 4 is to be applied to the granting of the permit, subsection (8) applies, instead of section 524(2).
- (8) For applying section 652, the written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day, and the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the period of 4 months after the notification commencement day.

731 Existing mineral development licence applications

- (1) This section applies to an application for the granting of a mineral development licence.
- (2) The chief executive must ask the applicant to nominate which of the following the applicant now seeks to be granted—
 - (a) a low impact mineral development licence under part 16;
 - (c) a high impact mineral development licence under part 16 for the granting of which part 16, division 4 applies.
- (3) If the applicant nominates a low impact mineral development licence, subsection (4) applies to the giving of the application notice under section 542, instead of 542(2).
- (4) The notice must be given no earlier than the notification commencement day for the application, and no later than—
 - (a) 2 months after the notification commencement day for the application; or
 - (b) if, under section 543, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.

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- (7) If the applicant nominates a high impact mineral development licence, and part 17, division 4 is to be applied to the granting of the licence, subsection (8) applies, instead of section 581(2).
 - (8) For applying section 652, the written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day, and the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the period of 4 months after the notification commencement day.

732 Existing mining lease applications

- (1) This section applies to an application for the granting of a mining lease.
- (7) If part 17, division 4 is to be applied to the granting of the mining lease, subsection (8) applies to the giving and publication of notice under section 652, instead of section 652(3).
- (8) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than—
 - (a) 4 months after the notification commencement day for the application; or
 - (d) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

733 Existing applications for certain approvals

- (1) This section applies to an application for an approval relating to a mining lease.

[s 734]

- (4) If part 17, division 4 is to be applied to the approval, subsection (5) applies to the giving and publication of notice under section 652 instead of section 652(3).
- (5) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than—
 - (a) 4 months after the notification commencement day for the application; or
 - (b) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

734 Separate hearings

- (1) This section applies if, for an application for the granting of a mining claim or mining lease—
 - (a) the provisions of this Act, other than the native title provisions, have been complied with, wholly or partly; and
 - (b) part 17, division 4 is to be applied to the granting; and
 - (c) a hearing (the *earlier hearing*) has already been held under part 4 or 7 for the granting of the mining claim or mining lease.
- (2) The tribunal is not required, at a hearing under part 17, division 4, to consider any issue dealt with at the earlier hearing.
- (4) If a hearing is required under part 17, division 4, sections 671 and 672 do not apply, but—
 - (a) the mining registrar must, within 10 business days after the pre-referral period ends, fix a day for the hearing; and

- (b) all consultation and negotiation parties have the right to be heard at the hearing; and
- (c) the tribunal must hear the application and make a native title issues decision.

Division 3 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000

735 Existing Act continues to apply for special agreement Acts until Environmental Protection Act, ch 13, pt 2, div 7 commences

- (1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act had not been enacted.
- (2) Subject to subsections (3) and (4A), subsection (1) ceases to apply when the Environmental Protection Act, chapter 13, part 2, division 7 commences.
- (3) The existing Act continues to apply for changing a condition of a transitional authority (SAA) as if the amending Act had not been enacted.

Note—

See also the Environmental Protection Act, section 616D (Changing conditions of transitional authority (SAA)).

- (4) However, subsection (3)—
 - (a) does not apply for making or deciding an application under the Environmental Protection Act, section 616H(b) to amend the authority; and
 - (b) does not limit chapter 13, part 2, division 7, subdivision 6 of that Act; and

[s 736]

- (c) stops applying if the authority is amended under chapter 13, part 2, division 7, subdivision 6 of that Act and the amended authority has taken effect under that Act.

Editor's notes—

- Environmental Protection Act, chapter 13 (Savings, transitional and related provisions), part 2 (Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000), division 7 (Provisions about special agreement Acts inserted under Environmental Protection and Other Legislation Amendment Act 2008), subdivision 6 (Amendment of transitional authorities (SAA) for conversion to new authorities)
 - Environmental Protection Act, section 616H (Requirement to apply for new authority or amend etc. transitional authority (SAA))
- (4A) Section 292(1) and (2) of the existing Act continues to apply for amending a plan of operations under the existing Act for a relevant mining lease for a transitional authority (SAA) as if the amending Act had not been enacted.
- (5) In this section—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2000*.

existing Act means this Act as it was in force immediately before the amending Act, section 6 commenced.

transitional authority (SAA) see the Environmental Protection Act, section 615.

Division 4 Transitional provision for Mineral Resources and Other Legislation Amendment Act 2002

736 Exclusion of pt 7A for continuance of existing notifiable road uses

- (1) Part 7A does not apply for a notifiable road use (the *continuing use*) carried out by a mining tenement holder if—

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- (a) at any time within 12 months before the commencement of section 318EP, the holder carried out a notifiable road use (the *existing use*); and
 - (b) the type of haulage under the continuing use is the same, or substantially the same, as the type of haulage under the existing use.
- (2) Subsection (1) applies even if the continuing use stops and later starts again.

Division 5 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2003

737 No notification commencement day advised before 31 March 2003

- (1) This section applies to an application if—
 - (a) it is an application to which division 2 applies; and
 - (b) the mining registrar or the chief executive is required under section 727 to give the applicant under the application a notice advising the applicant of the notification commencement day for the application; and
 - (c) the notice is not given on or before 31 March 2003.
- (2) The mining registrar or chief executive must not give the notice.
- (3) For the purpose only of deciding whether a division of part 14, 15, 16 or 17 applies in relation to the application, the application is taken to have been lodged after 31 March 2003.

738 Effect of extension of time for giving notice or information

- (1) This section applies to a person if—

[s 739]

- (a) at any time before the commencement of this section, the person was required to give a notice or information within a stated time; and
 - (b) immediately before the commencement, the person had not given the notice or information, whether or not the stated time had expired.
- (2) The time within which the person must give the notice or information may be worked out using the stated time as amended by the amending Act.
- (3) In this section—

amending Act means the *Natural Resources and Other Legislation Amendment Act 2003*.

relevant provision means section 486(2)(a), 487(1), 524(3), 542(2)(a), 543(1) or 581(3).

stated time means the number of days stated in a relevant provision.

Division 6 Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004

Subdivision 1 Preliminary

739 Definitions for div 6

In this division—

commencement, other than for subdivision 2, means the day section 318CM commences.

MDL means mineral development licence.

MDL applicant see section 754(2)(c).

MDL application see section 754(1)(b).

mineral hydrocarbon mining lease means any of the following mining leases or its replacement, or any consolidation of 2 or more of the following leases the area of which does not include land not in the area of the following mining leases—

Mining lease number	Mining lease name
ML1759	Blackwater Mine
ML1760	Blackwater
ML1761	Mackenzie River
ML1762	South Blackwater
ML1763	Goonyella Coal Mine
ML1764	Riverside
ML1771	Sirius Creek
ML1773	Laleham
ML1775	—
ML1781	Daunia
ML1782	Norwich Park
ML1789	Gregory
ML1790	—
ML1791	Winchester
ML1792	Terang
ML1800	Wilpeena Mining Lease
ML1802	Riverside Extended
ML1831	German Creek

[s 739]

Mining lease number	Mining lease name
ML1860	Togara No. 2
ML1885	Harrow Creek Extended
ML1907	Marshmead
ML1923	Gregory Extension
ML4749	Poitrel
ML4750	Kemmis-Walker
ML4751	Bee Creek
ML4752	Lancewood
ML5591	Moura
ML5592	Moura
ML5593	Moura
ML5596	Moura
ML5597	Moura
ML5598	Moura
ML5599	Moura No. 3
ML5600	Moura
ML5601	Moura
ML5603	Moura
ML5604	Moura
ML5606	Moura
ML5607	Moura
ML5611	Moura

Mining lease number	Mining lease name
ML5630	Moura
ML5643	Moura
ML5644	Moura
ML5646	Moura
ML5650	Moura
ML5656	Moura
ML5657	Theodore
ML70108	Moranbah North

mining, a substance, includes—

- (a) extracting, producing, releasing or disposing of the substance; and
- (b) transporting the substance within the boundaries of the area of the mining lease under which it was mined.

overlapping land see section 754(1).

special agreement Act means any of the following—

- (a) the *Central Queensland Coal Associates Agreement Act 1968*; or
- (b) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962 to 1965*;
- (c) an agreement, or amendment of an agreement, provided for under an Act mentioned in paragraph (a) or (b).

[s 740]

Subdivision 2 Provisions for special agreement Acts

740 Application of div 6 to special coal mining lease under special agreement Act

This division applies to a special coal mining lease granted under a special agreement Act as if the lease were a mineral hydrocarbon mining lease.

741 Unfinished special coal mining lease applications

- (1) A special coal mining lease must not be granted under a special agreement Act if the lease was applied for or requested, but not granted, before the commencement of this section.
- (2) Subject to subsection (3), an addition to the area of an existing special coal mining lease must not be made under a special agreement Act if the addition was applied for or requested, but not made, before the commencement.
- (3) Subsection (2) does not apply if the addition is additional surface areas within the area of the existing special coal mining lease and the special coal mining lease was granted under the *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.
- (4) This section applies despite any provision of the special agreement Act.
- (5) In this section—

applied for includes specified under clause 18 of the agreement under the *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.

existing special coal mining lease means a special coal mining lease that, immediately before the commencement, was in force under a special agreement Act.

742 Division 6 prevails over special agreement Acts

If a provision of this division conflicts with a provision of a special agreement Act, the provision of this division prevails to the extent of the inconsistency.

743 No compensation

- (1) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the enactment or operation of this subdivision.
- (2) Subsection (1) applies despite any provision of a special agreement Act and despite any other Act or law.

Subdivision 3 Provision for section 3A

744 Application of s 3A to existing mining tenements

- (1) Section 3A applies for an existing mining tenement.
- (2) However, section 3A(3) and (7) do not apply for an authorised activity for an existing mining tenement until 3 months after the commencement.
- (3) In this section—

commencement means the day section 3A commences.

existing mining tenement means a mining tenement (other than a coal or oil shale mining tenement) in force immediately before the commencement.

[s 745]

Subdivision 4 Unfinished coal or oil shale mining lease applications for land in area of petroleum tenure

745 Application of pt 7AA

- (1) This section applies if, before the commencement—
 - (a) a coal or oil shale mining lease application was made; and
 - (b) a recommendation about the application had not been made to the Governor in Council under section 271(3)(a)(i); and
 - (c) the land the subject of the application is in the area of a petroleum tenure.
- (2) Part 7AA applies to the application.
- (3) The application may be decided only if the provisions of part 7AA, to the extent they are relevant, have been complied with.
- (4) However, subsections (2) and (3) are subject to sections 307 and 392.

Subdivision 5 Provisions for existing coal mining leases

746 Clarification provision for coal seam gas

- (1) This section applies to a coal mining lease, other than a mineral hydrocarbon mining lease, that was in force during the period in which the *Petroleum Act 1923*, former section 150(4), was in force.
- (2) To remove any doubt, it is declared that despite the provisions of the *Petroleum Act 1923*, section 150(4), the entitlement under section 235 (as it was in force during that period) of the lease holder is taken, during the period, to have included the right to extract and produce, or mine, coal seam gas.

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- (3) To remove any doubt, it is declared that subsection (2) does not affect the application of part 7AA, division 8, subdivision 1 in relation to the lease.
 - (4) The right under subsection (2) is subject to section 748.

747 Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases

- (1) From the commencement, a mineral hydrocarbon mining lease holder may—
 - (a) mine for coal seam gas in the area of the mining lease; and
 - (b) use the coal seam gas mined for any purpose allowed under the lease, including, for example, any of the following uses allowed under the lease—
 - (i) a use that, under section 318CN, may be made of incidental coal seam gas by a coal or oil shale mining lease holder;
 - (ii) a commercial use that may be made of coal seam gas by a petroleum lease holder.
- (2) However, the mining and the carrying out of a use mentioned in subsection (1)(b) is subject to—
 - (a) section 318CO, as deferred under section 749; and
 - (b) section 318CU; and
 - (c) the following provisions of the Petroleum and Gas (Production and Safety) Act—
 - (i) chapters 6, 9, 10 and 11;
 - (ii) chapter 8, parts 1 and 2;
 - (iii) chapters 12 to 14 to the extent they apply for the provisions mentioned in subparagraphs (i) and (ii).
- (3) To remove any doubt, it is declared that—
 - (a) subsection (1) applies despite—

[s 748]

- (i) section 318CN(1), (2) and (3); or
 - (ii) the *Petroleum Act 1923*, section 150; or
 - (iii) the Petroleum and Gas (Production and Safety) Act, sections 800 and 802; and
- (b) the rights under subsection (1) may be exercised—
- (i) even though the holder does not hold a petroleum tenure that allows the rights to be exercised; and
 - (ii) independently of any right the holder has under the lease to mine coal.

748 Restriction on flaring or venting coal seam gas

Section 318CO applies for a coal mining lease in force immediately before the commencement as if a reference in section 318CO to incidental coal seam gas were a reference to coal seam gas generally.

749 Deferral of ss 318CN(2) and 318CO for particular existing coal mining lease holders

If, immediately before the commencement, the holder of a coal mining lease was commercially using incidental coal seam gas mined under the lease, sections 318CN(2) and 318CO do not apply to the holder until 12 months after the commencement.

750 Deferral of s 318CR(1) for existing coal mining lease holders

Section 318CR(1) does not apply to the holder of a coal mining lease in force at the commencement until 6 months after the commencement.

Subdivision 6 Modified application of section 318CI for particular existing exploration tenements overlapping with petroleum lease

751 Application of sdiv 6

- (1) This subdivision applies if—
 - (a) land is in the area of—
 - (i) a coal or oil shale exploration tenement; and
 - (ii) a petroleum lease; and
 - (b) the exploration tenement and the lease are in force immediately before the commencement.
- (2) However—
 - (a) this subdivision does not apply to an MDL granted before the petroleum lease; and
 - (b) this subdivision does not apply, or ceases to apply, if the same person holds the exploration tenement and the lease.

752 Modified application of s 318CI until 3 months after commencement

- (1) If, immediately before the commencement, an authorised activity for the exploration tenement was being carried out on the land, section 318CI does not apply for the carrying out of the activity on the land during the period that—
 - (a) starts on the commencement; and
 - (b) ends 3 months after the commencement.
- (2) However, if the carrying out of the activity during the period adversely affects the carrying out of an authorised activity for the lease, the activity may be carried out during the period only if section 318CI is complied with.

[s 753]

- (3) Subsection (2) applies whether or not the authorised activity for the lease has already started.

753 Power to relinquish if activity restricted

- (1) If, because of the restriction under section 752(2), the activity can not be carried out, the exploration tenement holder may with the Minister's approval lodge a written notice—
- (a) relinquishing the part of the area of the exploration tenement to which the restriction applies; and
 - (b) proposing, for the Minister's approval, amendments to the exploration tenement accepted by the Minister under section 133(1)(g)(i) or 183(1)(m)(i)(B) to reflect the restriction.
- (2) The notice must be lodged at—
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) Subsection (1) does not limit section 141C.
- (4) The proposed amendments have no effect unless the Minister approves them.

Subdivision 7 Particular provision for existing mineral development licences that overlap with a Petroleum Act lease

754 Application of sdiv 7

- (1) This subdivision applies if, before the commencement, a petroleum lease under the *Petroleum Act 1923* was granted and when it was granted the area of the lease included any of the following land (*overlapping land*)—

-
- (a) land in the area of an MDL that is a coal or oil shale exploration tenement;
 - (b) land the subject of an application (the *MDL application*) for an MDL made but not decided before the commencement if the MDL applied for would, if granted, be a coal or oil shale exploration tenement under that Act.
- (2) However, this subdivision does not apply, or ceases to apply, if—
- (a) the same person holds the lease and the MDL; or
 - (b) the overlapping land ceases to be in the area of the lease or the MDL, or subject to the MDL application; or
 - (c) the person who made the MDL application (the *MDL applicant*) is also the lessee; or
 - (d) the MDL application is rejected; or
 - (e) the MDL holder or the MDL applicant has agreed in writing with the lessee that this division does not apply.

755 Substituted restriction on authorised activities

- (1) This section applies instead of section 318CI for the MDL or any licence granted because of the MDL application.
- (2) An authorised activity for the MDL may be carried out on the overlapping land only if—
 - (a) an agreement between the MDL holder and the lessee about coordinated development or access on the overlapping land provides that the activity may be carried out; or
 - (b) the required notice has been given and the carrying out of the activity—
 - (i) does not interfere with the carrying out of an authorised activity under the lease on the overlapping land; and

[s 756]

- (ii) is consistent with the safety management plan under the Petroleum and Gas (Production and Safety) Act for any operating plant on the overlapping land, the operation of which is an authorised activity for the lease.
- (3) Subsection (2)(b) applies whether or not the authorised activity for the lease has already started.
- (4) In this section—
required notice means a notice from the MDL holder to the lessee, given a reasonable period before the start of the authorised activity for the MDL, that states when and where the activity is proposed to be carried out.

Subdivision 8 Development plans

756 Application of sdiv 8

- (1) This subdivision applies for any coal or oil shale mining lease in force immediately before the commencement.
- (2) Sections 757 to 759 also apply for any coal or oil shale mining lease granted for an application made before 31 December 2004 if the land the subject of the application was not in the area of a petroleum tenure.
- (3) For applying subsection (2), the definition *relevant period* in section 758(4) is taken to be as follows—
relevant period means 6 months after the first anniversary of the grant of the lease.

757 Deferral of obligation to comply with development plan

Sections 318DQ and 318DR do not apply for the coal or oil shale mining lease until—

- (a) if its holder complies with section 758—when the Minister’s decision about whether to approve the holder’s proposed development plan takes effect; or
- (b) if its holder does not comply with section 758—6 months after the commencement.

758 Obligation to lodge proposed development plan

- (1) It is a condition of the coal or oil shale mining lease that its holder must, within the relevant period, lodge at the following office a proposed initial development plan for the lease—
 - (a) the office of the department for lodging proposed development plans, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (2) The proposed plan must—
 - (a) comply with the initial development plan requirements; and

Note—
See also section 318ED.

 - (b) be accompanied by the fee prescribed under a regulation.
- (3) Section 318DP and part 7AA, division 9, subdivision 3, apply for the proposed plan as if a reference in sections 318DZ to 318EA to a proposed mining lease were a reference to the coal or oil shale mining lease.
- (4) In this section—

relevant period means—

 - (a) if, at the commencement, the lease has underground coal mining operations or the holder is carrying out activities to manage or mine coal seam gas—6 months after the commencement; or

[s 759]

- (b) otherwise—6 months after the first anniversary of the grant of the lease that happens after the commencement.

759 Application of pt 7AA, div 9, sdiv 3 for approval of proposed plan

- (1) If the holder complies with section 758, part 7AA, division 9, subdivision 3 applies—
 - (a) as if a reference in the subdivision to a proposed mining lease were a reference to the coal or oil shale mining lease; and
 - (b) subject to section 760; and
 - (c) with other necessary changes.
- (2) For section 318AH, the reference to a development plan approved under part 7AA, division 8 is taken to include a reference to a development plan approved under division 8 as applied under subsection (1).

760 Additional requirement for proposed development plan for mineral hydrocarbon mining lease

- (1) If the coal or oil shale mining lease is a mineral hydrocarbon mining lease, a proposed development plan for the lease lodged under section 758 must—
 - (a) show that the lease holder proposes to commercialise coal seam gas; or
 - (b) include, or be accompanied by, evidence that satisfies the Minister that—
 - (i) the holder has fully investigated the opportunities to commercialise coal seam gas; and
 - (ii) there is no basis to commercialise coal seam gas.
- (2) In this section—

commercialise, for coal seam gas, means to carry out commercial mining of coal seam gas under the rights for the lease under section 747(1).

761 Additional condition for proposed development plan for mineral hydrocarbon mining lease

- (1) This section applies if—
 - (a) the coal or oil shale mining lease is a mineral hydrocarbon mining lease; and
 - (b) the lease holder has, under section 758, lodged a proposed development plan for the lease; and
 - (c) the Minister is not satisfied as mentioned in section 760(1)(b).
- (2) The Minister may, by written notice, require the holder to carry out further investigations and lodge a written report about the investigations within a stated reasonable period at—
 - (a) the office of the department for lodging the report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) It is a condition of the lease that the holder must comply with the requirement.
- (4) In this section—

investigations includes discussions with the holder of any petroleum authority the area of which is included in the area of the mineral hydrocarbon mining lease.

[s 762]

762 Omission of particular conditions to be superseded by development plan

- (1) This section applies to a coal or oil shale mining lease as follows and the condition of the lease stated opposite the lease—

Mining lease number	Condition
----------------------------	------------------

ML6949	condition 2.35 in the annexure to the lease
ML70108	special condition and reservation 1 in schedule 3 to the lease
ML70241	the special condition in schedule B to the lease

- (2) From the first approval of a development plan for the lease after the commencement the condition is no longer a condition of the lease.
- (3) The mining registrar must, as soon as practicable after the first approval, amend the instrument of the lease to omit the condition.

763 Development plan requirements for renewal applications if no current development plan

- (1) This section applies for a renewal application for the coal or oil shale mining lease if the lease does not yet have a development plan.

Note—

See section 758.

- (2) Subsections (3) to (5) apply instead of sections 318DI(2), 318DJ and 318DK.
- (3) The application must include a proposed development plan for the renewed lease.
- (4) The provisions of part 7AA, division 9, subdivision 3 apply—

-
- (a) as if a reference in the subdivision to a proposed mining lease were a reference to the coal or oil shale mining lease; and
 - (b) subject to section 760; and
 - (c) with other necessary changes.
- (5) For section 318AH, the reference to a development plan approved under part 7AA, division 8 is taken to include a reference to a development plan approved under division 8 as applied under subsection (4).

Division 7 Transitional provisions for Mineral Resources and Other Legislation Amendment Act 2005

764 Application of particular provisions

- (1) Each of sections 81, 138(2) to (4), 139, 141, 194 and 276, as amended, applies to the mining tenement mentioned in the section whether the tenement is granted before or after the commencement of the amendment.
- (2) Each of sections 85 and 93(3)(c), as amended, applies to an application for renewal of a mining claim made, but not decided, before the commencement of the amendment.
- (3) Each of sections 85A and 279A applies if—
 - (a) the circumstances mentioned in subsection (1)(a) of the section arise before the commencement of the section; and
 - (b) the 3-month period mentioned in subsection (1)(b) of the section ends after the commencement.
- (4) Section 137(3)(h) applies to an exploration permit applied for before, but granted after, the commencement of the provision.
- (5) Each of sections 133, 147, 197 and 286 as in force immediately before the section's amendment continues to

[s 764A]

apply, despite the amendment, in relation to applications made, but not decided, before the amendment.

- (6) Section 144, as amended, applies in relation to a determination made by the Minister under section 144(1) after the commencement of the amendment, even if the application for the grant or renewal mentioned in the section was made before the commencement.
- (7) Section 269, as amended, applies in relation to an application for the grant of a mining lease made before the commencement of the amendment if the tribunal's recommendation is made after the commencement.
- (8) In this section—

amended means amended or repealed by the amending Act.

amending Act means the *Mineral Resources and Other Legislation Amendment Act 2005*.

764A Application of public interest provisions to undecided applications

- (1) To remove any doubt, it is declared that to the extent they are relevant the public interest provisions apply to any undecided application for the renewal of a mining tenement.
- (2) In this section—

public interest provisions means sections 147A(1)(d), 197A(1)(e) and 286A(1)(g).

undecided application means an application lodged but not decided before the public interest provisions commenced.

Division 8 Transitional provisions for Land Court and Other Legislation Amendment Act 2007

765 Particular references to Land Court to be taken to be references to tribunal

- (1) A reference in this Act to the Land Court is taken to be a reference to the tribunal for—
 - (a) any application under this Act, including any proceeding relating to the application, to which any provision of the native title provisions applies; and
 - (b) any other matter that is the subject of the native title provisions if, in the opinion of the Land Court or the tribunal, it is necessary or convenient that the reference be taken to be a reference to the tribunal.
- (2) If, for a particular matter, subsection (1) would require a reference, in a relevant section, to the Land Court to be taken to be a reference to the tribunal, any reference in the section to the Land Appeal Court is taken to be a reference to the tribunal (appeal) as defined in the section immediately before the commencement of this section.
- (3) In this section—
relevant section means section 86 or section 282.

766 Reference to tribunal in s 764 (Application of particular provisions)

The reference in section 764(7) to the tribunal may, for a recommendation mentioned in that provision that is made by the Land Court after the commencement of this section, be taken to be a reference to the Land Court.

[s 766A]

Division 9 **Transitional provision for Mining and Other Legislation Amendment Act 2007**

766A Provision for amendment of s 133

- (1) This section applies for an exploration permit application if—
 - (a) it was lodged on or before 31 March 2003; and
 - (b) it had not been decided before the commencement of this section; and
 - (c) any of the native title provisions apply for the deciding of the application.
- (2) Section 133 applies for the deciding of the application as if the amendment of that section under the *Mining and Other Legislation Amendment Act 2007* had not been enacted.

Division 10 **Transitional provisions for Clean Energy Act 2008**

767 Continuation of regulation under s 391

- (1) This section applies to the *Mineral Resources Regulation 2003*, part 8 and schedule 3 (the *restricted area arrangements*), as in force immediately before the commencement of this section.
- (2) The restricted area arrangements continue to have effect as if the amendment of section 391 under the *Clean Energy Act 2008* had not commenced.
- (3) Any provision included in the restricted area arrangements may be repealed by a regulation under this Act but a provision may not be amended.

767A Application of s 208(3A) to existing applications

To remove any doubt, it is declared that section 208(3A) applies to an application lodged under section 208 but not decided before section 208(3A) commenced.

Division 11 Transitional provision for Mines and Energy Legislation Amendment Act 2008

Subdivision 1 Provisions for amendments to due dates and reminder dates

768 Application of div 11

This division applies to a mining tenement granted before 1 January 2009 if it is a mining claim, mineral development licence or mining lease.

769 Transitional provision for rental

- (1) Subject to subsections (2) and (3), the unamended rental provision continues to apply to the mining tenement up to 31 August 2009.
- (2) The amended rental provision applies to the mining tenement for any rental year starting on or after 1 September 2009.
- (3) However, for applying subsections (4) and (5)(b) of the unamended rental provision, the period from 1 January 2009 to 31 August 2009 (the *nominal year*) is taken to be a whole rental year.
- (4) The amount of the rental prescribed for the nominal year is taken to be two-thirds of the amount of the rental prescribed for 2009.
- (5) In this section—

[s 770]

amended rental provision means the following as in force on the date of assent of the amending Act—

- (a) if the mining tenement is a mining claim—section 95;
- (b) if the mining tenement is a mineral development licence—section 193;
- (c) if the mining tenement is a mining lease—section 290.

amending Act means the *Mines and Energy Legislation Amendment Act 2008*.

unamended rental provision means the following as in force before the date of assent of the amending Act—

- (a) if the mining tenement is a mining claim—section 95;
- (b) if the mining tenement is a mineral development licence—section 193;
- (c) if the mining tenement is a mining lease—section 290.

770 Transitional provision for contravention provisions

- (1) For applying section 95(5)(a), 193(5)(a) or 290(5)(a) to the mining tenement before 2 April 2009, the reference in that provision to 30 September is taken to be a reference to 31 January.
- (2) For applying section 106(2)(a), 209(2)(a) or 308(2)(a) to the mining tenement before 2 April 2009, the reference in that provision to 1 December is taken to be a reference to 1 April.

Subdivision 2 Provision for special agreement Acts

771 Payment of rent for special agreement Act leases

- (1) From the commencement of this section—
 - (a) the designated rental provision applies for the payment of rent under any special agreement Act lease; and

-
- (b) a provision of any of the following ceases to apply to the extent the provision conflicts with the designated rental provision—
- (i) a special agreement Act;
 - (ii) an agreement mentioned in a special agreement Act;
 - (iii) a special agreement Act lease.
- (2) The application of the designated rental provision is subject to subdivision 1.
- (3) To remove any doubt, it is declared that the designated rental provision applies as mentioned in subsection (1)(a) despite the relevant special agreement Act and the repealed transitional schedule.
- (4) This section does not affect or otherwise limit the application of section 290A to a special agreement Act lease.
- (5) In this section—

designated rental provision, for a special agreement Act lease, means—

- (a) if the lease has been renewed since 1 September 1990—section 290; or
- (b) if the lease has not been renewed since 1 September 1990—modified section 290.

modified section 290 means section 290 changed so that the references in section 290(4) and (5)(b) to the prescribed amount for a rental year are, for a special agreement Act lease, references to the rental payable for the period that corresponds to that year under the relevant—

- (a) special agreement Act; or
- (b) agreement mentioned in a special agreement Act; or
- (c) special agreement Act lease.

repealed transitional schedule means the former schedule to this Act that was repealed by the Offshore Minerals Act 1998.

[s 772]

Editor's note—

For access to the schedule, see reprint 4 of this Act.

special agreement Act means an Act mentioned in the table to section 3(1) of the repealed transitional schedule.

special agreement Act lease means a lease mentioned in section 3(1)(b) of the repealed transitional schedule.

Subdivision 3 Miscellaneous provision

772 Existing applications

- (1) To remove any doubt, it is declared that to the extent they are relevant the amendments to this Act under the amending Act apply to any undecided application for or relating to a mining tenement.
- (2) In this section—

amending Act means the *Mines and Energy Legislation Amendment Act 2008*.

undecided application means an application lodged but not decided before the date of assent of the amending Act.

Division 12 Transitional provision for Mines and Energy Legislation Amendment Act 2010

773 Existing mining lease applications

- (1) This section applies to an application for the grant of a mining lease lodged before the commencement but not heard by the Land Court before the commencement.
- (2) If a properly made objection was lodged before the commencement—
 - (a) previous section 265 applies to the application; and

-
- (b) this Act as in force immediately before the commencement continues to apply to the Land Court for dealing with, or continuing to deal with, the application.
- (3) If a properly made objection was not lodged before the commencement—
- (a) amended section 265 applies to the application; and
- (b) any reference under previous section 265 of the application to the Land Court for hearing is of no effect and is taken never to have had any effect; and
- (c) this Act as in force from the commencement applies to the application.
- (4) In this section—

amended section 265 means section 265 as in force immediately after the commencement.

commencement means the date of assent of the *Mines and Energy Legislation Amendment Act 2010*.

previous section 265 means section 265 as in force before the commencement.

properly made objection means an objection to the application lodged in accordance with section 260.

Division 13 Transitional provisions for amendments under Geothermal Energy Act 2010

Subdivision 1 Provision for amendments commencing on date of assent

774 Reference to particular leases

- (1) A reference in an Act, lease, contract or other document to a CQCAA lease is, if the context permits, taken to include a

[s 775]

reference to a CQCAA lease that is renewed under this Act or any other Act relating to mining.

(2) In this section—

CQCAA lease means a special coal mining lease granted under the *Central Queensland Coal Associates Agreement Act 1968*.

775 Application of amended s 249

- (1) This section applies if, immediately before the commencement, section 249 applied in relation to an application mentioned in section 249(1).
- (2) Section 249 as in force immediately after the commencement applies in relation to the application.
- (3) For the purpose of subsection (2), the request period under section 249 is the period of 10 business days starting on the commencement.
- (4) In this section—

commencement means the commencement of this section.

Subdivision 2 Provisions for amendments about compensation and the land access code

776 Old access code ceases to apply

- (1) This section applies if a condition of a mining tenement requires the holder to comply with the old access code.
- (2) On the commencement of this section the condition ceases to be a condition of the mining tenement.
- (3) In this section—

old access code means the document called ‘Code of Conduct-Procedures for Sound Landowner/Explorer Relations’ approved by the Minister on 20 September 1990.

777 Land access code prevails over conditions

If a condition of a mining tenement is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

778 Existing compensation decisions and proceedings continue

- (1) If, before the commencement of this section, the Land Court had decided compensation under former section 145 or 191 for a matter, the decision is taken to be the compensation for the matter decided under schedule 1, section 22.
- (2) If, immediately before the commencement, a proceeding under former section 145 or 191 had been started—
 - (a) the proceeding may be finished as if schedule 1 had not been enacted; and
 - (b) compensation decided for the matter in the proceeding is taken to be the compensation decided under schedule 1, section 22 for the matter.
- (3) In carrying out a review of the compensation or decided compensation under schedule 1, section 22, the Land Court must apply former section 145 or 191—
 - (a) as if the review were the proceeding mentioned in the section; and
 - (b) with other necessary changes.
- (4) This section applies despite schedule 1, section 22(1).

[s 779]

779 Existing agreements about compensation

- (1) This section applies if immediately before the commencement of this section an agreement was in force between—
 - (a) an exploration permit holder and an owner about the owner's entitlement under former section 145; or
 - (b) a mineral development licence holder and an owner about the owner's entitlement under former section 191.
- (2) On the commencement, the agreement becomes a conduct and compensation agreement under schedule 1.

780 Existing notices of entry

- (1) This section applies if, before the commencement of this section, an exploration permit or mineral development licence holder had given an owner of land notice of entry under former section 163 or 211.
- (2) Despite schedule 1, the notice of entry may be renewed under former section 164 or 212, but only to the extent it relates to—
 - (a) a preliminary activity; or
 - (b) an advanced activity stated in the notice.
- (3) The notice of entry and any renewal of it under subsection (2) is taken to be an entry notice for schedule 1.
- (4) To remove any doubt, it is declared that subsection (3) applies even though a copy of any document required, under schedule 1, to accompany an entry notice did not accompany the notice of entry.

781 Additional exemption to conduct and compensation agreement requirement

- (1) This section applies—
 - (a) for the holder of an exploration permit or mineral development licence holder if the holder has given a converted entry notice; and

- (b) until the earlier of the following to happen—
- (i) the day that is 6 months after the relevant anniversary day for the exploration permit or mineral development licence;
 - (ii) 1 September 2011.
- (2) During the term of the converted entry notice, including any renewed term, under former section 164 or 212, the conduct and compensation agreement requirement under schedule 1 does not apply to the holder.
- (3) In this section—

converted entry notice means a notice of entry that, under section 780(3), is taken to be an entry notice for schedule 1.

relevant anniversary day, for an exploration permit or mineral development licence, means the anniversary of the grant of the permit or licence that first occurs after the commencement of this section.

782 References to geothermal tenure

Until the *Geothermal Energy Act 2010*, chapter 10, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.

Subdivision 3 Provisions for enactment of Geothermal Energy Act 2010

783 Definitions for sdiv 3

In this subdivision—

converted geothermal permit means a geothermal exploration permit under the repealed *Geothermal Exploration Act 2004* that, under the Geothermal Act, chapter 9, part 2 becomes a geothermal permit.

start day means the day section 318ELAM commences.

784 Existing mining tenement applications

- (1) This section applies to a mining tenement application if—
 - (a) it was made before the start day; and
 - (b) there is an overlapping geothermal tenure for the proposed mining tenement.
- (2) The repealed coordination provisions cease to apply to the mining tenement application.
- (3) Part 7AAC applies to the mining tenement application.
- (4) If the mining tenement application is for a mining lease, subsections (5) to (9) apply for the application of part 7AAC under subsection (3).
- (5) The mining lease application is taken to have been validly made even though it was made without complying with the requirements under section 318ELAQ.
- (6) However, the applicant must, as soon as practicable after the start day, lodge with the mining registrar documents for the mining lease application that comply with the requirements.
- (7) A reference to a mining lease application is taken to be a reference to the mining lease application and the documents.
- (8) A reference to the making of a mining lease application is taken to be a reference to the lodgement of the documents.
- (9) In this section—

converted geothermal permit application means a tender under the repealed *Geothermal Exploration Act 2004* for a proposed geothermal exploration permit that, under the Geothermal Act, chapter 9, part 2 becomes an application for a geothermal permit.

overlapping geothermal tenure means a geothermal tenure that is an overlapping authority (geothermal or GHG) for the proposed mining tenement, as defined under section 318ELAN.

repealed coordination provisions means the following provisions as in force before the start day—

- (a) sections 51 and 248 to the extent they applied for a converted geothermal permit;
- (b) section 249 to the extent it applied for a converted geothermal permit application.

785 Existing mining claims consented to by geothermal permit holder

- (1) This section applies to a mining claim granted before the start day for land in the area of a converted geothermal permit.
- (2) Part 7AAC, division 5, subdivision 1 does not apply if the permit holder's written consent to the grant was given under section 51(1)(f) as in force before the start day.

Editor's note—

Part 7AAC, division 5, subdivision 1 (Restrictions on authorised activities for particular mining tenements)

Division 14 Transitional provision for Gas Security Amendment Act 2011

786 Date of effect of amended s 381A

Section 381A, as amended by the *Gas Security Amendment Act 2011*, is taken to have had effect on and from 5 November 2008.

[s 787]

Division 15 **Transitional provision for Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011**

787 Particular applications taken to be properly made

- (1) This section applies if—
 - (a) a mining lease application for land was made on or after 17 March 2008; and
 - (b) under section 318AQ, 318AR, 318BQ, 318BR, 318BY or 318CE as in force before the commencement of this section (each the *unamended provision*), separate mining lease applications were required to be made for particular parts of the land; and
 - (c) separate mining lease applications were not made as required by the unamended provision.
- (2) Despite the noncompliance with the requirement, the application is taken to be, and is taken to always have been, a mining lease application for the land made under parts 7 and 7AA.
- (3) However, subsection (2) applies only to the extent the application does not comply with the unamended provision.
- (4) This section applies whether or not the application has been decided at the commencement.

Part 3 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012—amendments commencing on assent

788 Definitions for div 16

In this division—

amending Act means the *Mines Legislation (Streamlining) Amendment Act 2012*.

commencement means the commencement of this section.

789 Particular land in a mining tenement's area taken before the commencement

(1) This section applies if—

- (a) land in the area of a mining tenement was taken under a resumption law before the commencement; and
- (b) at the commencement, the entity taking the land has not taken action indicating the mining tenement was extinguished (wholly or partly) when the land was taken.

Examples of action for paragraph (b)—

- serving a copy of the resumption notice for the taking of the land on the mining tenement holder (in the holder's capacity as the holder of the tenement)
- entering into a resumption agreement under the ALA with the mining tenement holder for the taking of the land
- negotiating, or taking other action relating to, the compensation payable to the mining tenement holder for the taking of the land
- paying compensation to the mining tenement holder for the taking of the land

- arranging for the taking of the land to be recorded in the register against the mining tenement
- (2) However, this section does not apply in relation to the taking of land in the area of a mining lease for a transport infrastructure purpose.
 - (3) The taking of the land did not extinguish (wholly or partly) the mining tenement or any other mining tenement interest relating to the tenement.
 - (4) Subsection (3) does not affect the ending of a mining tenement interest (wholly or partly) in any other way, including, for example—
 - (a) by the entity taking the land acquiring the mining tenement interest (wholly or partly) under a separate commercial agreement or other arrangement with the holder of the interest; or
 - (b) by the mining tenement interest holder surrendering the interest (wholly or partly) under this Act.
 - (5) In this section—

transport infrastructure purpose means a purpose relating to transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*.

790 Land in a mining tenement’s area for which notice of intention to resume given before the commencement

- (1) This section applies if—
 - (a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a mining tenement’s area; and
 - (b) at the commencement, the land had not been taken under the resumption law.
- (2) If the land is taken other than by taking or otherwise creating an easement, sections 10AAA to 10AAD apply in relation to the taking, except that the resumption notice for the taking

may provide for the extinguishment of a mining tenement interest on the taking even if the notice of intention to resume does not comply with section 10AAA(8).

- (3) If the land is taken by taking or otherwise creating an easement, section 10AAD applies in relation to the taking.

Part 4 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012—amendments commencing by proclamation

Division 1 Preliminary

791 Definitions for div 17

In this division—

amending Act means the *Mines Legislation (Streamlining) Amendment Act 2012*.

commencement means the commencement of the section in which the term is used.

former, for a provision of this Act, means the provision as in force immediately before the commencement of the section in which the term is used.

new, for a provision of this Act, means the provision as in force immediately after the commencement of the section in which the term is used.

Division 2 Provisions relating to exploration permits

792 Particular applications for exploration permits

- (1) This section applies if—
 - (a) an application for an exploration permit was made before the commencement; and
 - (b) apart from this section, new section 131(1)(c) would prevent the grant of the exploration permit applied for.
- (2) New section 131 does not apply for the application.
- (3) The application must be decided under former section 131.

793 Periodic reduction in land covered by existing exploration permit

- (1) This section applies to an exploration permit in existence immediately before the commencement.
- (2) For the current remaining term of the exploration permit—
 - (a) new section 139 does not apply to the exploration permit; and
 - (b) the area of the exploration permit must be reduced under former section 139.
- (3) In this section—

current remaining term means the period from the commencement until the expiry of the exploration permit.

Division 3 Provisions relating to mining claims

794 Existing applications for mining claim if no referral to Land Court

- (1) This section applies if, before the commencement—

-
- (a) an application for a mining claim was made, but not decided, under part 4; and
 - (b) the application was not referred to the Land Court under section 72; and
 - (c) 1 or more of the following apply—
 - (i) there are no properly made objections to the application;
 - (ii) all properly made objections to the application are withdrawn;
 - (iii) the applicant abandons the application.
- (2) The application may—
- (a) be dealt with under section 74; or
 - (b) if the application for a mining claim has been abandoned—be dealt with under section 108.
- (3) In this section—
- properly made objection* has the meaning given by former section 72.

795 Existing applications for mining claim or renewal of mining claim—term of claim

- (1) This section applies if an application for a mining claim or renewal of a mining claim was made, but not decided, under part 4 before the commencement.
- (2) Sections 91 and 93, as amended under the amending Act, apply to the grant of any mining claim or renewal for the application.

Division 4 Provisions relating to mining leases

796 Existing applications for mining lease if no referral to Land Court

- (1) This section applies if, before the commencement—
 - (a) an application for a mining lease was made, but not decided, under part 7; and
 - (b) the application was not referred to the Land Court under section 265; and
 - (c) 1 or more of the following apply—
 - (i) there are no properly made objections to the application;
 - (ii) all properly made objections to the application are withdrawn;
 - (iii) the applicant abandons the application.
- (2) The application may—
 - (a) be dealt with under section 271; or
 - (b) if the application for a mining lease has been abandoned—be dealt with under section 307.
- (3) In this section—

properly made objection has the meaning given by former section 265.

797 Existing referral of mining lease to Land Court

- (1) This section applies if, before the commencement—
 - (a) an application for a mining lease was made, but not decided, under part 7; and
 - (b) the application was referred to the Land Court under section 265: and

-
- (c) the Land Court has fixed a date for the hearing but the hearing has not started; and
 - (d) either or both of the following apply—
 - (i) all properly made objections to the application are withdrawn;
 - (ii) the applicant abandons the application.
 - (2) Section 265, as amended under the amending Act, applies to the application.
 - (3) In this section—

properly made objection has the meaning given by former section 265.

798 Minister to decide particular applications for or about mining leases

- (1) This section applies if—
 - (a) before the commencement, an application was made for—
 - (i) a mining lease under section 245; or
 - (ii) the renewal of a mining lease under section 286; or
 - (iii) the variation of conditions of a mining lease under section 294; or
 - (iv) the variation of a mining lease under section 295; or
 - (v) the consolidation of mining leases under section 299; or
 - (vi) a mining lease for the transportation of a thing through, over or under land under section 316; and
 - (b) the Governor in Council has not decided the application.
- (2) The Minister must decide the application under—

- (a) if the application is for a mining lease—new section 271A; or
- (b) if the application is for the renewal of a mining lease—section 286A, as amended under the amending Act; or
- (c) if the application is for the variation of conditions of a mining lease—section 294, as amended under the amending Act; or
- (d) if the application is for the variation of a mining lease—section 295, as amended under the amending Act; or
- (e) if the application is for the consolidation of mining leases—section 299, as amended under the amending Act; or
- (f) if the application is for a mining lease for the transportation of a thing—section 316, as amended under the amending Act.

Division 5 Provisions common to mining tenements

799 Unfinished actions under former s 96, 151, 198 or 300

- (1) This section applies if a person had an obligation under former section 96, 151, 198 or 300 and the person had not discharged the obligation before the commencement.
- (2) Despite the repeal of the section under the amending Act, the section continues to have effect in relation to the person until the obligation is discharged.

800 Deciding applications for approval of assessable transfers until commencement of particular provisions

- (1) This section applies until the commencement of the *Environmental Protection Act 1994*, chapter 5A, part 4 as

inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

- (2) Former section 391A continues in force instead of section 318AAX(4)(a)(ii), as inserted by the amending Act, for deciding whether to give an approval of an assessable transfer, as if an approval of an assessable transfer were a decision to assign a mining tenement.

801 Continued functions for caveats received before the commencement

- (1) Despite the repeal of sections 98 and 302 under the amending Act—
- (a) former sections 98 and 302 continue to apply to the mining registrar in relation to a relevant caveat received by the mining registrar before the commencement; and
 - (b) former sections 153 and 200 continue to apply to the chief executive in relation to a relevant caveat received by the chief executive before the commencement.
- (2) In this section—
- relevant caveat*—
- (a) for the mining registrar—means a caveat to which former section 98 or 302 applied; or
 - (b) for the chief executive—means a caveat to which former section 153 or 200 applied.

802 Continued functions for removal or withdrawal of caveat

Despite the repeal of sections 101, 156, 203 and 305 under the amending Act—

- (a) former sections 101 and 305 continue to apply to the mining registrar in relation to the following—
 - (i) an order of the Land Court, under former section 101(3) or 305(3), that a caveat be removed;

- (ii) a notice, under former section 101(5) or 305(5), about the withdrawal of a caveat if given to the registrar before the commencement; and
- (b) former sections 156 and 203 continue to apply to the chief executive in relation to the following—
 - (i) an order of the Land Court, under former section 156(3) or 203(3) that a caveat be removed;
 - (ii) a notice, under former section 156(5) or 203(5), about the withdrawal of a caveat if given to the chief executive before the commencement.

Division 6 Other provisions

803 Existing requests for information

- (1) This section applies if a request for information was made, but not complied with, under the following provisions before the commencement—
 - (a) former section 133A;
 - (b) former section 147AA;
 - (c) former section 183A;
 - (d) former section 197AA;
 - (e) former section 245A;
 - (f) former section 286AA.
- (2) On the commencement, the request is taken to have been made under section 386J(1).

804 Relocation and renumbering of provisions

- (1) If a provision of this Act (a *relocated or renumbered provision*) is relocated or renumbered by chapter 4 of the amending Act—

[s 806]

- (2) This Act as in force on 1 October 2012 applies in relation to the unpaid royalty on and from that day.
- (3) For applying section 332 to the unpaid royalty under subsection (2), the start date is taken to be 1 October 2012.

Part 6 **Transitional provisions for Mining and Other Legislation Amendment Act 2013**

Division 1 **Provisions for amendments commencing on assent**

806 **Definition for div 1**

In this division—

commencement means the commencement of this section.

807 **Existing applications for exploration permits for minerals other than coal**

- (1) This section applies to an application for an exploration permit for a mineral other than coal that—
 - (a) was made before the commencement; and
 - (b) has not been decided at the commencement.
- (2) The application must be decided under this Act as in force after the commencement.

808 **Existing applications for exploration permits for coal**

- (1) This section applies to an application for an exploration permit for coal that—

-
- (a) was made before the commencement; and
 - (b) has not been decided at the commencement.
- (2) The application must be decided under this Act as in force before the commencement, as if the amending Act had not been enacted.
- (3) In this section—

amending Act means the *Mining and Other Legislation Amendment Act 2012*.

Division 2 Provisions for amendments commencing by proclamation

809 Definitions for div 2

In this division—

commencement means the commencement of this division.

pre-amended Act means this Act as in force before the commencement.

former, in relation to a provision of this Act, means the provision as in force before the commencement.

810 Application of former ss 61, 64 to 64D and 83

- (1) Subsections (2) and (3) apply to an application for the grant of a mining claim made but not decided before the commencement.
- (2) Former section 61(1)(j)(iv) continues to apply to the application as if the reference in the subparagraph to the mining registrar's satisfaction were a reference to the chief executive's satisfaction.

[s 811]

- (3) Former sections 64 to 64D continue to apply to the application—
 - (a) as if a reference in the sections, other than former section 64C(2)(a), to a mining registrar were a reference to the chief executive; and
 - (b) as if the reference in former section 64C(2)(a) were a reference to the Minister.
- (4) Subsection (5) applies to an application for the grant or renewal of a mining claim made but not decided before the commencement.
- (5) Former section 83(1) continues to apply to the application as if the reference in the subsection to the mining registrar were a reference to the Minister.

811 Provision about condition for work program

- (1) Subsection (2) applies to a mining claim in force on the commencement if the claim was granted or renewed more than 5 years before the commencement.
- (2) The condition mentioned in section 81(1)(c) as in force after the commencement applies to the mining claim only if it is renewed after the commencement.
- (3) Subsection (4) applies to a mining claim in force on the commencement if—
 - (a) the claim was granted or renewed for a term of more than 5 years; and
 - (b) the fifth anniversary of the grant or renewal of the claim happens within 6 months after the commencement.
- (4) Section 81(1)(c) as in force after the commencement applies to the claim as if the condition under that paragraph required the holder of the claim to give the chief executive a work program for the claim within 7 months after the commencement.

812 Application of s 93 to renewal of mining claim

- (1) This section applies to an application for renewal of a mining claim made but not decided before the commencement.
- (2) Section 93(2)(b) as in force after the commencement does not apply to the application.

813 Persons taken to be authorised officers

- (1) This section applies to a person who, immediately before the commencement, is a mining registrar, deputy mining registrar, field officer, other officer or other person appointed under the pre-amended Act, former section 336(1) or (3).
- (2) On the commencement, the person is taken to be appointed as an authorised officer.

814 References to repealed terms in former provisions and other documents

- (1) This section applies if, on the commencement, a reference in a former provision to a mining registrar or deputy mining registrar becomes a reference to an authorised officer, the chief executive or the Minister (the *replacement entity*).
- (2) If necessary or convenient for the operation of this Act—
 - (a) a thing done by or given to a mining registrar or deputy mining registrar under the former provision is taken to have been done by or given to the replacement entity; and
 - (b) an application made, or that could be made, to a mining registrar or deputy mining registrar under the former provision is taken to have been made, or may be made, to the replacement entity; and
 - (c) an approval, permit, lease, licence or other authorisation, however called, or other thing granted or given by a mining registrar or deputy mining registrar

[s 815]

- under the former provision is taken to have been granted or given by the replacement entity; and
- (d) an action taken by, or to be taken by, a mining registrar or deputy mining registrar under the former provision is taken to have been taken, or may be taken, by the replacement entity; and
 - (e) a decision, direction, recommendation or requirement made by, or to be made by, a mining registrar or deputy mining registrar under the former provision is taken to have been made by, or may be made by, the replacement entity; and
 - (f) a reference in the former provision to a mining registrar or deputy mining registrar is, if the context permits, taken to be a reference to the replacement entity; and
 - (g) a reference in a document to a mining registrar or deputy mining registrar is, if the context permits, taken to be a reference to the replacement entity.
- (3) If necessary or convenient for the operation of this Act, the replacement entity may deal with a matter mentioned in subsection (2) in compliance with the Act as in force after the commencement.

815 Other references to repealed terms

In a document or other Act, a reference to a following term under the pre-amended Act may, if the context permits, be taken as a reference to an authorised officer—

- (a) mining registrar;
- (b) deputy mining registrar;
- (c) relevant officer.

816 Conversion of mining lease to mining claim

- (1) This section applies to a mining lease or mining leases for corundum, gemstones or other precious stones if—

-
- (a) the area of the mining lease, or combined area of the mining leases, is not more than 20ha; and
 - (b) for 2 or more mining leases—
 - (i) the land in the area of the leases is contiguous; and
 - (ii) the holder of the mining leases is the same entity.
 - (2) The holder of the mining lease or mining leases may, within 2 years after the commencement, apply to the Minister to convert the whole area of the mining lease or mining leases to a mining claim or 2 mining claims applying to corundum, gemstones or other precious stones.
 - (3) The application must—
 - (a) be in the approved form; and
 - (b) state the name of each applicant; and
 - (c) state the number of the mining lease or mining leases; and
 - (d) identify, in the way required under section 62(b), the boundaries of the land to be included in the mining claim or mining claims; and
 - (e) describe all parcels of land the whole or part of which are the subject of the application and state the name and address of each owner of the land and of land that is to be used as access; and
 - (f) describe and identify, in the way required under section 62(c), the land proposed to be used as access from a point, the chief executive considers appropriate, outside the boundary of the proposed mining claim or mining claims to the land over which the mining claim or mining claims is sought; and
 - (g) be accompanied by a sketch, map or other graphic representation the chief executive considers appropriate setting out the boundaries of the land to be included in the mining claim or mining claims and the land to be used as access; and

[s 816]

- (h) be accompanied by a work program for the activities to be carried out under the mining claim or mining claims; and
 - (i) identify the mineral or minerals for which the mining claim or mining claims is sought.
- (4) If a mining lease or mining leases are converted to a mining claim or mining claims under this section—
 - (a) the area of the mining claim or mining claims must include the whole of the surface of the land within the mining lease or mining leases and can not include any other land; and
 - (b) the term of the mining claim or mining claims end on the first of the following to happen—
 - (i) the day that is 10 years after the conversion;
 - (ii) if only 1 mining lease is converted—the day the term of the mining lease would have ended if it had not been converted;
 - (iii) if more than 1 mining lease is converted—the first day the term of any of the mining leases would have ended if that mining lease had not been converted.
- (5) The Minister must consider an application made under this section and decide to grant or refuse the application.
- (6) The Minister may grant the application if satisfied the holder has complied with the conditions of the relevant mining lease and this Act in relation to the lease.
- (7) If the Minister decides to grant the application, the chief executive must—
 - (a) give the applicant notice of the decision; and
 - (b) record particulars of the conversion in the register.
- (8) If the Minister decides to refuse the application, the chief executive must give the applicant notice of the decision and reasons for it.

- (9) On the recording of the particulars of the conversion in the register—
- (a) the relevant mining lease is taken to be a mining claim; and
 - (b) any security deposited under this Act for the lease is taken to be a security deposited for the mining claim.
- (10) If a relevant mining lease is subject to a condition that it can not be renewed or further renewed, the converted mining claim is subject to a condition that it can not be renewed.
- (11) Without limiting section 81 or subsection (10), a converted mining claim is subject to the conditions decided by the Minister and stated on the notice mentioned in subsection (7)(a).
- (12) If the term of a relevant mining lease would, but for this subsection, end before the application is decided, the lease is taken to continue in force until the application is decided.
- (13) In this section—
- relevant mining lease***, for an application, means the mining lease to which the application relates.

Schedule 1 Access and compensation provisions for exploration permits and mineral development licences

sections 163 and 211

Part 1 Preliminary

Division 1 Key definitions for schedule 1

1 Meaning of *exploration tenement*

An *exploration tenement* is any exploration permit or mineral development licence.

2 What is a *preliminary activity*

- (1) A *preliminary activity*, for a provision about an exploration tenement, means an authorised activity for the tenement that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- walking the area of the permit or licence
- driving along an existing road or track in the area
- taking soil or water samples
- geophysical surveying not involving site preparation
- aerial, electrical or environmental surveying
- survey pegging

- (2) However, the following are not preliminary activities—

- (a) an authorised activity carried out on land that—
- (i) is less than 100ha; and

- (ii) is being used for intensive farming or broadacre agriculture;

Examples—

- land used for dryland or irrigated cropping, plantation forestry or horticulture
 - a dairy, cattle or sheep feedlot, piggery or poultry farm
- (b) an authorised activity carried out within 600m of a school or an occupied residence;
- (c) an authorised activity that affects the lawful carrying out of an organic or bioorganic farming system.

3 What is an *advanced activity*

An *advanced activity*, for a provision about an exploration tenement, means an authorised activity for the tenement other than a preliminary activity for the tenement.

Examples—

- levelling of drilling pads and digging sumps
- bulk sampling
- open trenching or costeaning with an excavator
- vegetation clear-felling
- constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump
- geophysical surveying with physical clearing
- carrying out a seismic survey using explosives
- constructing a track or access road
- changing a fence line

Division 2 Other definitions for schedule 1

4 Other definitions

In this schedule—

ADR see section 20(2)(b).

compensation liability see section 13(2).

conduct and compensation agreement see section 14(1).

conduct and compensation agreement requirement see section 10(2).

deferral agreement see section 11(c)(i).

election notice see section 20(2).

eligible claimant see section 13(1).

entry notice see section 5(1).

minimum negotiation period see section 17(2)(a).

negotiation notice see section 16(1).

parties see section 17(1).

private land means freehold land or an interest in land less than fee simple held from the State under another Act, other than—

- (a) to the extent of an interest in any of the following relating to the land—
 - (i) a mining interest;
 - (ii) a petroleum tenure or a licence under the Petroleum and Gas (Production and Safety) Act;
 - (iii) a GHG authority;
 - (iv) a geothermal tenure;
 - (v) an occupation right under a permit under the *Land Act 1994*; or
- (b) land owned by a public land authority.

public land means land other than—

- (a) private land; or
- (b) to the extent an interest in any of the following relates to the land—
 - (i) a mining interest;

- (i) the deferral agreement exemption;
- (ii) the Land Court application exemption; or
- (c) enter public land in an exploration tenement's area to carry out any authorised activity for the tenement;

unless the exploration tenement's holder has given each owner and occupier of the land a written notice of the entry that complies with section 6 (an *entry notice*).

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (2) The entry notice must be given—
 - (a) generally—at least 10 business days before the entry; or
 - (b) if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (3) The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the exploration tenement.

Maximum penalty—10 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (4) A contravention of subsection (3) does not affect the validity of the notice or the entry.
- (5) This section is subject to section 7.
- (6) In this section—

deferral agreement exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 11(c)(i).

give, for an entry notice, includes publishing it in a way approved under section 9.

Land Court application exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 11(c)(ii).

6 Required contents of entry notice

- (1) An entry notice must state the following—
 - (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the ***entry period***);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant exploration tenement holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) Also, the first entry notice from the exploration tenement holder to a particular owner or occupier must be accompanied by or include a copy of—
 - (a) the exploration tenement; and
 - (b) the land access code; and
 - (c) if the exploration tenement is for a small scale mining activity—the small scale mining code; and
 - (d) any code of practice made under this Act applying to authorised activities for the exploration tenement; and
 - (e) any relevant environmental authority for the exploration tenement.

- (3) The entry period can not be longer than—
 - (a) generally—6 months; or
 - (b) if the relevant owner or occupier agrees in writing to a longer period—the longer period.
- (4) Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the exploration tenement holder to another owner or occupier of the land.

7 Exemptions from entry notice requirement

- (1) The requirement under section 5(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—
 - (a) the exploration tenement holder owns the land;
 - (b) the holder has the right other than under this Act to enter the land to carry out the activity;
 - (c) if—
 - (i) there is a conduct and compensation agreement relating to the land; and
 - (ii) each eligible claimant for the land is a party to the agreement; and
 - (iii) the agreement includes a waiver of entry notice;
 - (d) the entry is to preserve life or property or because of an emergency that exists or may exist;
 - (e) the relevant owner or occupier has, by signed writing, given a waiver of entry notice.
- (2) A waiver of entry notice mentioned in subsection (1) must comply with section 8(1).

8 Provisions for waiver of entry notice

- (1) A waiver of entry notice mentioned in section 7 must—

- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and
- (b) state the following—
 - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The relevant owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

9 Giving entry notice by publication

- (1) The chief executive may approve an exploration tenement holder giving an entry notice for the tenement by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.
- (3) The chief executive may give the approval only if—
 - (a) for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and
 - (b) the publication will happen at least 20 business days before the entry.

Division 2 Conduct and compensation agreement requirement for particular advanced activities

10 Conduct and compensation agreement requirement for particular advanced activities

- (1) A person must not enter private land in an exploration tenement's area to carry out an advanced activity for the tenement (the *relevant activity*) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

- (2) The requirement under subsection (1) is the *conduct and compensation agreement requirement*.

- (3) In this section—

appropriate conduct and compensation agreement, for an eligible claimant, means a conduct and compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.

11 Exemptions from conduct and compensation agreement requirement

The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) the exploration tenement holder owns the land;
- (b) the holder has the right other than under this Act to enter the land to carry out the activity;
- (c) each eligible claimant for the land is—

- (i) a party to an agreement, complying with section 12, that a conduct and compensation agreement can be entered into after the entry (a *deferral agreement*); or
- (ii) an applicant or respondent to a Land Court application under section 22 relating to the land;
- (d) the entry is to preserve life or property or because of an emergency that exists or may exist.

12 Requirements for deferral agreement

A deferral agreement must—

- (a) be written and signed by or for the holder and each eligible claimant for the land to be entered; and
- (b) state the following—
 - (i) that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out;
 - (v) the period for which the deferral agreement has effect;
 - (vi) when it is proposed to enter into a conduct and compensation agreement.

Part 3 Compensation liability

13 General liability to compensate eligible claimants

- (1) The holder of each exploration tenement is liable to compensate each owner or occupier of private land or public land in the tenement's area (an *eligible claimant*) for any compensatable effect the eligible claimant suffers caused by relevant authorised activities.
- (2) An exploration tenement holder's liability under subsection (1) to an eligible claimant is the holder's *compensation liability* to the claimant.
- (3) This section is subject to section 11.
- (4) In this section—

compensatable effect means all or any of the following—

- (a) all or any of the following relating to the eligible 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 eligible claimant owns;
 - (v) any cost, damage or loss arising from the carrying out of activities under the exploration tenement on the land;
- (b) accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;

Examples of negotiation—

an ADR or conference

15 Content of conduct and compensation agreement

- (1) A conduct and compensation agreement between an eligible claimant and an exploration tenement holder must—
 - (a) provide for the matters mentioned in section 14(1); and
 - (b) be written and signed by or for the eligible claimant and the holder; and
 - (c) state whether it is for all or part of the liability; and
 - (d) if it is for only part of the liability, state—
 - (i) details of each activity or effects of the activity to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (e) provide for how and when the liability will be met.
- (2) A conduct and compensation agreement may—
 - (a) provide for—
 - (i) monetary or non-monetary compensation; or
Example of non-monetary compensation—

A conduct and compensation agreement may provide for the construction of a road for the claimant.
 - (ii) a process by which it may be amended or enforced; and
Example of a process for amendment—

A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the exploration tenement.
 - (b) provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.
- (3) This section does not limit the matters that may be provided for in a conduct and compensation agreement.

Part 5 Negotiation process

Note—

Generally, an exploration tenement holder can not enter private land to carry out an advanced activity unless the holder complies with this part. See sections 10 and 11.

16 **Notice of intent to negotiate**

- (1) An exploration tenement holder may give an eligible claimant to whom the holder has a compensation liability a notice (the *negotiation notice*) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.
- (2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—
 - (a) if the holder wishes to negotiate a conduct and compensation agreement—
 - (i) whether the holder wishes to negotiate all or part of the holder's compensation liability to the eligible claimant; and
 - (ii) if the holder only wishes to negotiate part of the liability—what the part is;
 - (b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;
 - (c) the land the exploration tenement tenure holder proposes to enter;
 - (d) the activities proposed to be carried out on the land;
 - (e) when and where the activities are proposed to be carried out;
 - (f) contact details for—
 - (i) the relevant exploration tenement holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.

- (3) The exploration tenement holder must give the chief executive a copy of the negotiation notice immediately after it is given.
Maximum penalty for subsection (3)—10 penalty units.

17 Negotiations

- (1) On the giving of the negotiation notice, the exploration tenement holder and the eligible claimant (the *parties*) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a *relevant agreement*).
- (2) The period of the negotiations—
 - (a) must be at least for the period provided for under section 18 (the *minimum negotiation period*); but
 - (b) may continue for as long as the parties wish.
- (3) If, during the minimum negotiation period, the parties enter into a relevant agreement, the exploration tenement holder can not enter the relevant land to carry out advanced activities for the exploration tenement until the period ends.
- (4) Subsection (3) applies despite the terms of the agreement.

18 Provision for the minimum negotiation period

- (1) Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the *usual period*).
- (2) Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.
- (3) If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.

19 Cooling-off during minimum negotiation period

- (1) This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.

- (2) Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.
- (3) On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.
- (4) To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.

20 Parties may seek conference or independent ADR

- (1) This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.
- (2) Either party may by a notice (an *election notice*)—
 - (a) to the other party and an authorised officer—ask for a relevant officer to call a conference to negotiate a conduct and compensation agreement; or
 - (b) to the other party—call upon them to agree to an alternative dispute resolution process (an *ADR*) to negotiate a conduct and compensation agreement.
- (3) If the notice calls for an ADR, it must—
 - (a) identify the ADR; and
 - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.
- (4) An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.
- (5) However, the facilitator must be independent of either party.

21 Conduct of conference or ADR

- (1) This section applies if an election notice is given.
- (2) If a conference was requested—
 - (a) the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the *usual period*); and

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- (b) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.
 - (3) An eligible party may apply to the Land Court for it to decide the exploration tenement holder's—
 - (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the exploration tenement holder proposed to be carried out by or for the holder.
 - (4) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.
 - (5) In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.
 - (6) In this section—

eligible party means a party who attended the conference or ADR.

relevant environmental compensation application means an application to the Land Court for compensation that is or may be payable by the exploration tenement holder to the eligible claimant under the Environmental Protection Act.

23 Land Court review of compensation

- (1) This section applies if—
 - (a) the compensation liability or future compensation liability of an exploration tenement holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the *original compensation*); and
 - (b) there has been a material change in circumstances (the *change*) since the agreement or decision.

- (2) The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.
- (3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.
- (4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- (5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.
- (6) If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

24 Orders Land Court may make

- (1) The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.

Part 7 Additional Land Court jurisdiction for compensation and related matters

25 What pt 7 is about

- (1) This part provides for additional matters for which the Land Court has jurisdiction.
- (2) The jurisdiction is subject to parts 2 to 6.

26 Additional jurisdiction

- (1) This section applies if—
 - (a) an exploration tenement holder and an eligible claimant can not reach agreement about a conduct and compensation agreement; or
 - (b) there is a conduct and compensation agreement or deferral agreement.
- (2) The Land Court may assess all or part of the relevant exploration tenement holder's compensation liability to another party.
- (3) In this section—

party means any of the following—

 - (a) the relevant exploration tenement holder;
 - (b) an eligible claimant mentioned in subsection (1)(a);
 - (c) an eligible claimant who is a party to an agreement mentioned in subsection (1)(b).

27 Jurisdiction to impose or vary conditions

- (1) In deciding a matter mentioned in section 26(2), the Land Court may—
 - (a) impose any condition it considers appropriate for the exercise of the parties' rights; or
 - (b) vary any existing condition under an agreement between the parties.
- (2) The variation may be made on any ground the Land Court considers appropriate.
- (3) The imposed or varied condition is taken to be—
 - (a) if there is an agreement between the parties—a condition of the agreement; or
 - (b) if there is no agreement between the parties—an agreement between the parties.
- (4) In this section—

agreement means a conduct and compensation agreement.

condition means a condition of or for a conduct and compensation agreement.

Part 8 **Miscellaneous provision**

28 **Compensation not affected by change in ownership or occupancy**

A conduct and compensation agreement or a Land Court decision under this schedule is for the benefit of and is taken to have been agreed to or decided for and is binding on—

- (a) the relevant eligible claimant; and
- (b) the exploration tenement holder; and
- (c) each of their successors and assigns including successors and assigns for the area of the relevant exploration tenement.

Schedule 1A Native title provisions

Part 1 Introduction to native title provisions

419 Application of native title provisions

- (1) The native title provisions state additional requirements that apply for certain grants, renewals and variations of, and certain other acts concerning, mining tenements, including requirements for compensation, if the grants, renewals, variations and other acts concern non-exclusive land.
- (2) Whether or not the additional requirements apply for particular acts concerning mining tenements, and the extent to which the additional requirements apply, may be determined from individual application provisions located in parts 2 to 7, and chapter 15, part 2, division 2.
- (3) However, no additional requirements under parts 2 to 7, and chapter 15, part 2, division 2 apply to an act if a notice under section 29 of the Commonwealth Native Title Act in relation to the act, required to be given as part of complying with the right to negotiate provisions, was given before the commencement of this section.
- (4) Parts 1 to 6 do not apply to an act that is excluded from the operation of the right to negotiate provisions under section 26D of the Commonwealth Native Title Act.

420 Exclusion of certain agreed acts from pts 2–6

Parts 2 to 6 do not apply to an act that is the grant of a prospecting permit, or the grant, renewal or variation of, or another act concerning, a mining claim, exploration permit, mineral development licence or mining lease if—

- (a) there is an indigenous land use agreement registered on the register of indigenous land use agreements; and

- (b) the agreement includes statements to the effect that—
 - (i) the parties to the agreement consent, with or without stated conditions, to the doing of the act; and
 - (ii) the right to negotiate provisions are not intended to apply to the act.

421 Effect of failure to comply with native title provisions

An act to which the native title provisions apply is invalid to the extent that it affects native title unless—

- (a) the procedures of the native title provisions that are required to be complied with by the State before the act is done are complied with by the State, to the extent that the State is a party to any consultation or negotiation about the doing of the act; and
- (b) the procedures of the native title provisions that are required to be complied with by the applicant for the doing of the act before the act is done are complied with by the applicant.

422 Definitions for native title provisions

In the native title provisions—

applicant, for a proposed mining tenement, includes a person who intends to apply for the proposed mining tenement.

approved opal or gem mining area means an area of land that is—

- (a) an approved opal or gem mining area determined in writing by the Commonwealth Minister under section 26C of the Commonwealth Native Title Act; and
- (b) prescribed under a regulation.

decision includes the following—

- (a) a determination;

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- (b) a recommendation made by the Minister or the tribunal and any thing done by the Minister or the tribunal for the making of a recommendation.

native title notification party, for land, means an entity that is—

- (a) a registered native title body corporate in relation to any of the land; or
- (b) a registered native title claimant in relation to any of the land; or
- (c) a representative Aboriginal/Torres Strait Islander body for an area that includes any of the land.

non-exclusive land means land over which native title has not been extinguished, but only to the extent that the land is a place mentioned in section 26(3) of the Commonwealth Native Title Act.

registered native title rights and interests means—

- (a) in relation to a registered native title claimant—the native title rights and interests described in the relevant entry on the Register of Native Title Claims; and
- (b) in relation to a registered native title body corporate—the native title rights and interests described in the relevant entry on the National Native Title Register established and maintained under part 8 of the Commonwealth Native Title Act.

relevant special interest publication, for a proposed mining tenement, means a newspaper or magazine that—

- (a) caters mainly or exclusively for the interests of Aboriginal peoples or Torres Strait Islanders; and
- (b) circulates in the geographical area that may be affected by the proposed mining tenement or, if the area is an offshore place, the geographical area closest to it; and
- (c) is published at least once a month.

right to negotiate provisions means part 2, division 3, subdivision P of the Commonwealth Native Title Act.

423 Other provisions for interpretation of native title provisions

- (1) Words and expressions used in the Commonwealth Native Title Act and the native title provisions have the same meaning in the native title provisions as they have in the Commonwealth Native Title Act.
- (2) Subsection (1) applies except so far as the context or subject matter otherwise indicates or requires.
- (3) However, subsection (1) does not apply to a word or expression defined in schedule 2.
- (4) Without limiting subsection (3), a reference in the native title provisions to land, or to land or waters, is a reference to land as defined in schedule 2.

Part 2 Native title provisions for prospecting permits

Division 1 Preliminary

425 Purpose of pt 2

The purpose of this part is—

- (a) to state additional requirements that apply for—
 - (i) the granting of a prospecting permit under chapter 2 if the permit is a proposed low impact prospecting permit over non-exclusive land; and
 - (ii) the exercise of the entitlement, under a low impact prospecting permit, to enter non-exclusive land; and
- (b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A of the Commonwealth Native Title Act.

426 Application of pt 2

- (1) This part applies to the granting of a prospecting permit if—
 - (a) the permit is a low impact prospecting permit; and
 - (ab) the application for the permit was lodged on or before 31 March 2003; and
 - (b) the granting of the permit is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.
- (2) However, this part applies to the granting of the prospecting permit—
 - (a) only to the extent that the prospecting permit relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land the subject of the permit is non-exclusive land.
- (3) The requirements of this part are additional to the requirements of chapter 2.

427 Exclusion of certain prospecting permits from pt 2

This part does not apply to a prospecting permit if the permit is solely for purposes necessary to enable the permit holder to apply for the granting of a mining claim or mining lease.

428 Limited application of pt 2 to prospecting permit in approved opal or gem mining area

This part does not apply to an act relating to a prospecting permit in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to

negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act.

429 Definitions for pt 2

In this part—

access agreement, for entry to an area under a low impact prospecting permit, means an agreement between the permit holder and a registered native title party for the area concerning the holder's access to the area.

applicant means the applicant for the proposed low impact prospecting permit.

application notice see section 431(1).

consultation period see section 435(1).

consultation period advice day see section 435(2).

low impact prospecting permit see section 430.

registered native title party, for an area the subject of a low impact prospecting permit, means—

- (a) from the start of the consultation period advice day for entry to the area until immediately before the start of the consultation period for entry to the area—an entity that is, on the consultation period advice day, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant; and
- (b) from the start of the consultation period—an entity that is, on the first day of the consultation period, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant.

430 Meaning of *low impact prospecting permit* for pt 2

For this part, a *low impact prospecting permit* is a prospecting permit that—

- (a) is granted over land that is, or includes, non-exclusive land; and
- (b) at least to the extent the permit is granted over non-exclusive land, excludes all entitlement to enter for hand mining.

430A Delayed start for prospecting permit if access agreement required

- (1) This section applies if, before entry to an area under a low impact prospecting permit or proposed low impact prospecting permit it is necessary for—
 - (a) there to be an access agreement for entry to the area; or
 - (b) a registered native title party for the area to have given the permit holder a written notice under section 433(4) that the party does not wish to be consulted about an access agreement for the entry.
- (2) Despite anything in section 29, the term of the permit must not start before the first of the following to happen—
 - (a) the chief executive receives a copy of the access agreement under section 437;
 - (b) the chief executive receives from the permit holder a copy of the written notice mentioned in subsection (1)(b).

Division 2 Notification requirements**431 Requirement to notify**

- (1) The applicant must give written notice (the *application notice*) of the applicant's intention to lodge an application for a low impact prospecting permit, or of the lodgement of the application, to—

- (a) each native title notification party for the area to which the application relates; and
 - (b) the chief executive.
- (2) The notice must be given no earlier than 10 business days before the lodgement, and no later than—
- (a) the lodgement; or
 - (b) if, under section 432, the chief executive has given a direction for the giving of a new written notice—the end of the period nominated in the direction.
- (3) The notice must state the following—
- (a) the name and postal address of the applicant;
 - (b) whether or not the application has been lodged;
 - (c) a clear description of the land, and its location;
 - (d) details of the activities proposed for the land;
 - (e) an outline of the expected impact on the land of the proposed activities;
 - (f) that the applicant must not act under the permit applied for to enter non-exclusive land unless the applicant has an access agreement for entry to the land.

432 Failure to notify correctly

- (1) If the chief executive is satisfied that a written notice given, or purportedly given, under section 431 has not been given in accordance with the requirements of section 431(1) and (2) or does not comply with the requirements of section 431(3), the chief executive must—
- (a) give the applicant a written direction to give a new written notice under section 431; and
 - (b) in the direction, nominate a period within which the direction must be complied with.
- (2) The new notice, when given, must—

- (a) state that it is a replacement notice; and
- (b) identify the previous notice.

Division 3 Consultation and access agreement requirements before entry

433 Requirement for consultation and access agreement

- (1) It is a condition of a low impact prospecting permit that the permit holder must not act under the permit to enter, for the first time, any area of non-exclusive land unless the holder has consulted with each registered native title party for the area.
- (2) However, the condition does not require consultation with a registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the permit holder a written notice that the party does not wish to be consulted about the proposed activities stated in the application notice.
- (3) It is a condition of a low impact prospecting permit that the permit holder must not act under the permit to enter, for the first time, any area of non-exclusive land unless the holder has an access agreement for entry to the area with each registered native title party for the area, obtained after the start of the consultation period for entry to the area.
- (4) However, the condition does not require an access agreement for entry to the area with a particular registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the permit holder a written notice that the party does not wish to be consulted about an access agreement for the entry.

433A Prospecting activities to be carried out in accordance with access agreement

- (1) This section applies to the holder of a low impact prospecting permit if—

- (a) the holder is carrying out activities in an area under, or purportedly under, the permit; and
 - (b) there is an access agreement for entry to the area under the permit.
- (2) The holder must not carry out the activities in a way that is inconsistent with the requirements of the access agreement.

434 Consultation matters

- (1) The purpose of the consultation is to minimise the impact of the low impact prospecting permit on the exercise of native title rights and interests in relation to the land that will be affected under the permit, and to obtain any necessary access agreement for entry.
- (2) In particular, the consultation must be about the matters mentioned in section 26A(7) of the Commonwealth Native Title Act, as follows—
- (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;
 - (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the permit;
 - (c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the permit and affects native title rights and interests, is to be done.

434A Access agreements

- (1) An access agreement for entry to an area under a low impact prospecting permit may include provisions about any of the following—
 - (a) the periods during which the permit holder is to be permitted access to the area;
 - (b) the parts of the area the permit holder may access and the means by which access may be gained;
 - (c) the kinds of low impact activities that may be carried out on the area;
 - (d) the requirements to be observed by the permit holder when on the area;
 - (e) the things the permit holder needs to do to protect the environment in carrying out low impact activities on the area;
 - (f) compensation to be paid under part 7;
 - (g) how disputes arising in connection with the agreement are to be resolved;
 - (h) the way the agreement may be changed;
 - (i) other matters the parties to the agreement agree to provide for in the agreement.
- (2) Subsection (3) applies if there is an inconsistency between—
 - (a) a provision of an access agreement; and
 - (b) either of the following—
 - (i) a provision of this Act;
 - (ii) a condition of a low impact prospecting permit.
- (3) The provision of the Act or condition of the prospecting permit prevails.

435 Consultation period and consultation period advice day

- (1) The *consultation period*, for entry to an area—
 - (a) starts 1 month after the consultation period advice day for entry to the area; and
 - (b) ends 2 months after it starts.
- (2) The *consultation period advice day*, for entry to an area, is the day the notice is given under subsection (4).
- (3) The consultation period advice day must not be less than 3 months after the application notice relating to the low impact prospecting permit was given, or, if a replacement notice was given under section 432, the day the replacement notice was given.
- (4) The permit holder must give notice of the day on which the consultation period for entry to the area is to start, and the area to which the consultation in the consultation period is to relate, to—
 - (a) each entity that is a registered native title party for land included in the area; and
 - (b) the chief executive.
- (5) The notice given under subsection (4) must contain a clear description of the area to be entered and its location, and a description of the nature of the low impact activities proposed for the area.

436 Parties may seek mediation

- (1) If, at the end of the consultation period for entry to an area, an access agreement for entry to the area has not been obtained between the permit holder and a registered native title party for the area, either party may ask the chief executive to hold a conference for mediation about the access agreement.
- (2) The registered native title party or the permit holder may be represented at the conference by a lawyer.
- (3) A party to the conference must pay the party's own costs for the conference.

436A Decision by tribunal

- (1) If an access agreement for entry to an area is not obtained within 1 month after the chief executive has been asked to hold a conference for mediation about the agreement, the permit holder or the registered native title party may ask the chief executive to refer the matter to the tribunal for a decision.
- (2) If the chief executive is asked to refer the matter to the tribunal for a decision—
 - (a) the chief executive must refer the matter; and
 - (b) the tribunal must decide the terms of the access agreement.
- (3) When the tribunal decides the terms of the access agreement—
 - (a) subject to any order made by the tribunal in the matter, the access agreement decided by the tribunal has effect as an access agreement as if the registered native title party and the permit holder had executed it; and
 - (b) the tribunal must also make a compensation decision or compensation trust decision for the registered native title party under part 7.

437 Notice of access agreement

The permit holder must, as soon as practicable after an access agreement for entry to an area is obtained, but in any event before the holder first enters the area, give a copy of the access agreement to the chief executive.

438 Chief executive may take action

The chief executive may, by notice in writing to the permit holder, impose conditions on the permit under section 25 to address any matter raised by a registered native title party in relation to an access agreement.

Part 3 **Native title provisions for mining claims**

Division 1 **Preliminary**

439 **Purpose of pt 3**

The purpose of this part is—

- (a) to state additional requirements that apply for the granting of a proposed mining claim, or variation or renewal of a mining claim, under chapter 3 over non-exclusive land; and
- (b) in stating the additional requirements, to provide alternative provisions under section 43 of the Commonwealth Native Title Act.

440 **Limited application of pt 3 to mining claim in approved opal or gem mining area**

This part does not apply to an act relating to a mining claim in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act.

Division 4 **Mining claims**

462 **Application of div 4**

- (1) This division applies to the granting of a proposed mining claim if—
 - (a) the application for the mining claim was lodged on or before 31 March 2003; and
 - (b) the granting of the mining claim is an act—
 - (i) that affects native title rights and interests; and

- (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.
- (2) However, this division applies to the granting of the proposed mining claim—
 - (a) only to the extent that the mining claim relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land the subject of the mining claim is non-exclusive land.
- (3) The requirements of this division are additional to the requirements of chapter 3.

463 Requirement for grant

- (1) The additional requirements applying under part 6, division 4 for the granting of a proposed mining lease also apply for the granting of the proposed mining claim.
- (2) The requirements apply with necessary changes.

464 Applying pt 6, div 4 for grant

- (1) This section—
 - (a) applies for applying the provisions of part 6, division 4; and
 - (b) does not limit section 463.
- (3) For applying section 669, the pre-referral period is—
 - (a) the period of 6 months starting on the notification day (native title issues); or
 - (b) if the registered native title parties for the non-exclusive land and the applicant agree on a time, which must be later than the time that would otherwise apply under

paragraph (a), and advise the Minister in writing of the agreed later time—the period ending at the agreed later time.

- (4) Section 671(3) is taken to require that the Minister must not act under section 74 to grant the mining claim unless a negotiated agreement has been reached.
- (5) Sections 672(2) to (4), 676, 678 and subdivisions 6 and 7 do not apply.
- (6) Section 680 does not apply, but the native title issues decision must be complied with by the Minister.
- (7) A reference in part 6, division 4 to a provision of chapter 6, part 1 is taken to be a reference to a corresponding provision of chapter 3.

Division 5 Renewals of mining claims

465 Application of div 5

- (5) This division applies to the renewal of a mining claim if—
 - (a) the application for the renewal of the mining claim was lodged on or before 31 March 2003; and
 - (b) the renewal of the mining claim is an act—
 - (i) that affects native title rights and interests; and
 - (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.
- (6) However, this division applies to the renewal of a mining claim mentioned in subsection (5) only to the extent that the area of the mining claim is non-exclusive land.
- (7) This division applies to the renewal of a mining claim mentioned in subsection (5) only to the extent that the mining

claim relates to a place that is on the landward side of the mean high-water mark of the sea.

- (8) The requirements of this division are additional to the requirements of chapter 3.
- (9) In this section—

renewal, of a mining claim, includes—

 - (a) the re-grant of the mining claim; and
 - (b) the re-making of the mining claim; and
 - (c) the extension of the term of the mining claim.

470 Requirements for renewal—applying div 4

- (1) If this division applies to the renewal of a mining claim because of section 465(5), the additional requirements applying under division 4 for the granting of a mining claim on non-exclusive land also apply for the renewal.
- (2) The requirements apply with necessary changes.

471 Applying div 4 for renewal

- (1) This section—
 - (a) applies for applying the provisions of division 4; and
 - (b) does not limit section 470.
- (2) Section 464(4) does not apply.
- (3) For applying section 464, subsections (4) to (7) of this section are taken to be included in section 464.
- (4) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the end of the period of 20 business days after lodgement of the application for the renewal.

- (5) For applying part 6, division 4, subdivisions 4 and 5, if the proposed renewal is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.
- (6) Sections 671 and 672 do not apply, but—
 - (a) the chief executive must within 10 business days after the pre-referral period ends, fix a day for the tribunal to hear the application for the renewal; and
 - (b) all consultation and negotiation parties have the right to be heard at the hearing; and
 - (c) the tribunal must hear the application for the renewal and make a native title issues decision; and
 - (d) before making its native title issues decision, the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 93(3).
- (7) For applying section 677, the tribunal must also take into account information received from the Minister under subsection (6)(d).

Division 6 Requirements for subsidiary approvals

472 Application of div 6

- (5) This division applies to the addition, under section 105, of specified minerals to a mining claim if—
 - (a) were the mining claim to be granted again, but only for the specified minerals, the granting would be an act affecting native title rights and interests; and
 - (b) the addition is an act in respect of which the right to negotiate provisions would have otherwise had effect; and

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- (c) the application for the addition was lodged on or before 31 March 2003; and
 - (d) the addition relates to non-exclusive land; and
 - (e) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.
- (7) This division applies to an addition mentioned in subsection (5) only to the extent that the addition relates to a place that is on the landward side of the mean high-water mark of the sea.
- (8) The requirements of this division are additional to the requirements of chapter 3.

477 Requirements for addition—applying div 4

- (1) If this division applies to the addition of minerals to a mining claim because of section 472(5), the additional requirements applying under division 4 for the granting of a mining claim on non-exclusive land also apply for the addition.
- (2) The requirements apply with necessary changes.

478 Applying div 4 for addition

- (1) This section—
 - (a) applies for applying the provisions of division 4; and
 - (b) does not limit section 477.
- (2) Section 464(4) does not apply.
- (3) For applying section 464, subsections (4) to (6) of this section are taken to be included in section 464.
- (4) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the end of the period of 20 business days after lodgement of the application for the addition.
- (5) For applying part 6, division 4, subdivisions 4 and 5, if the proposed addition is referred to the tribunal for a native title

issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.

- (6) Sections 671 and 672 do not apply, but—
- (a) the chief executive must within 10 business days after the pre-referral period ends, fix a day for the tribunal to hear the application for the addition; and
 - (b) all consultation and negotiation parties have the right to be heard at the hearing; and
 - (c) the tribunal must hear the application for the addition and make a native title issues decision.

Part 4 Native title provisions for exploration permits

Division 1 Preliminary

479 Purpose of pt 4

- (1) The purpose of this part is—
- (a) to state additional requirements that apply for—
 - (i) the granting of a proposed exploration permit, or the variation or renewal of an exploration permit, under chapter 4 if the permit is a low impact exploration permit over non-exclusive land; and
 - (ii) the exercise of the entitlement, under a low impact exploration permit, to enter non-exclusive land; and
 - (b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A of the Commonwealth Native Title Act.

- (2) The purpose of this part is also—
- (a) to state additional requirements that apply for the granting of a proposed exploration permit, or the variation or renewal of an exploration permit, under chapter 4 if the permit is a high impact exploration permit over non-exclusive land; and
 - (b) in stating the additional requirements, to provide alternative provisions under section 43 of the Commonwealth Native Title Act.

480 Limited application of pt 4 to exploration permit in approved opal or gem mining area

This part does not apply to an act relating to an exploration permit in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act.

481 Meaning of *low impact exploration permit*

For this part, a *low impact exploration permit* is an exploration permit that—

- (a) is granted over an area that is, or that includes, non-exclusive land; and
- (b) has a condition that, to the extent that the area of the permit is non-exclusive land, only low impact activities may be carried out.

482 Meaning of *low impact activity*

- (1) For this part, a *low impact activity*, for an exploration permit, means the following activities—

- (a) aerial surveys;

Examples—

geological, geophysical, photogrammetric and topographic aerial surveys

- (b) geological and surveying field work that does not involve clearing;

Examples—

- flagging of sites and sample locations
- geological reconnaissance and field mapping
- surveying that does not involve clearing

- (c) sampling by hand methods;

Examples—

- grab sampling
- mine tailings and mine mullock sampling
- panning and sieving
- rock chip sampling
- stream sediment sampling (disturbed and undisturbed samples)
- soil sampling (disturbed and undisturbed samples)
- water sampling

- (d) ground-based geophysical surveys that do not involve clearing;

Examples—

- potential-field methods of surveying, including, for example, gravity, magnetic and radiometric surveys
- electrical methods of surveying, including, for example, electromagnetic, ground-penetrating radar, induced polarisation and resistivity surveys
- seismic methods of surveying, including, for example, 'hammer', refraction and vibration-sourced surveys

- (e) drilling and activities associated with drilling that—

- (i) do not include clearing or excavation, other than the minimum necessary to establish a drill pad for a mobile rig; and
- (ii) do not include clearing or excavation for access to a drill site; and

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- (iii) do not include side hill excavation for access or drill pads as would be necessary on steep slopes; and
 - (iv) do not include drilling in a watercourse or stream diversion; and
 - (v) do not include clearing in densely vegetated areas;
 - (f) environmental field work that does not involve clearing.

Examples—

- cultural heritage, environmental and geobotanical surveys
- environmental monitoring

(2) In this section—

clearing means—

- (a) in relation to grass, scrub or bush—the removal of vegetation by disturbing root systems and exposing underlying soil, but does not include—
 - (i) the flattening or compaction of vegetation by vehicles if the vegetation remains living; or
 - (ii) the slashing or mowing of vegetation to facilitate access tracks; or
 - (iii) the clearing of noxious or introduced plant species; and
- (b) in relation to trees—cutting down, ringbarking or pushing over.

excavation means the use of machinery to dig below the top soil horizon, but does not include—

- (a) minor levelling of a site to allow a drill rig to operate on a level surface for safety reasons; or
- (b) the construction of a small sump for operational purposes.

top soil horizon means the top level or layer of soil that is generally less than 30cm thick.

483 Meaning of *high impact exploration permit*

For this part, a *high impact exploration permit* is an exploration permit that—

- (a) is granted over land that is, or includes, non-exclusive land; and
- (b) allows activities to be carried out that are not limited to low impact activities.

Division 2 Low impact exploration permits

Subdivision 1 Preliminary

484 Application of div 2

- (1) This division applies to the granting of a proposed exploration permit if—
 - (a) the exploration permit is a low impact exploration permit; and
 - (ab) the application for the exploration permit was lodged on or before 31 March 2003; and
 - (b) the granting of the exploration permit is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.
- (2) However, this division applies to the granting of the proposed exploration permit—
 - (a) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea; and

- (b) only to the extent that the land the subject of the exploration permit is non-exclusive land.
- (3) The requirements of this division are additional to the requirements of chapter 4.

485 Definitions for div 2

In this division—

access agreement, for entry to an area under a low impact exploration permit, means an agreement between the permit holder and a registered native title party for the area concerning the holder's access to the area.

applicant means the applicant for the proposed low impact exploration permit.

application notice see section 486(1).

consultation period see section 490(1).

consultation period advice day see section 490(2).

registered native title party, for an area the subject of a low impact exploration permit, means—

- (a) from the start of the consultation period advice day for entry to the area until immediately before the start of the consultation period for entry to the area—an entity that is, on the consultation period advice day, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant; and
- (b) from the start of the consultation period—an entity that is, on the first day of the consultation period, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant.

Subdivision 2 Notification requirements

486 Requirement to notify

- (1) The applicant must give written notice (the *application notice*) of the applicant's intention to lodge an application for a low impact exploration permit, or of the lodgement of the application, to—
 - (a) each native title notification party for the land the subject of the proposed exploration permit; and
 - (b) the Native Title Registrar.
- (2) The notice must be given no earlier than 1 month before the lodgement, and no later than—
 - (a) 10 business days after the lodgement; or
 - (b) if, under section 487, the chief executive has given a direction for the giving of a new written notice—the end of the period nominated in the direction.
- (3) The notice must state the following—
 - (a) the name and postal address of the applicant;
 - (b) whether or not the application has been lodged;
 - (c) a clear description of the land, and its location;
 - (d) details of the activities proposed for the land under a program of work;
 - (e) an outline of the expected impact on the land of the proposed activities;
 - (f) that the applicant must not act under the permit applied for to enter non-exclusive land unless the applicant has an access agreement for entry to the land.

487 Notification of chief executive

- (1) Within 5 business days after the applicant has complied, or purportedly complied, with the requirements of section 486, the applicant must give the chief executive information in the

approved form about the applicant's compliance with section 486.

- (2) A copy of the written notice given under section 486(1) must be attached to the approved form.
- (3) If the chief executive is satisfied that a written notice given, or purportedly given, under section 486 has not been given in accordance with the requirements of section 486(1) and (2), or does not comply with the requirements of section 486(3), the chief executive must—
 - (a) give the applicant a written direction to give a new written notice under section 486; and
 - (b) in the direction, nominate a period within which the direction must be complied with.
- (4) The new notice, when given, must—
 - (a) state that it is a replacement notice; and
 - (b) identify the previous notice.

Subdivision 3 Consultation and access agreement requirements before entry

488 Requirement for consultation and access agreement

- (1) It is a condition of a low impact exploration permit that the permit holder must not act under the permit to enter, for the first time, any area of non-exclusive land unless the holder has consulted with each registered native title party for the area.
- (2) However, the condition does not require consultation with a registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the permit holder a written notice that the party does not wish to be consulted about the proposed activities stated in the application notice.
- (3) It is a condition of a low impact exploration permit that the permit holder must not act under the permit to enter, for the first time, any area of non-exclusive land unless the holder has

an access agreement for entry to the area with each registered native title party for the area, obtained after the start of the consultation period for entry to the area.

- (4) However, the condition does not require an access agreement for entry to the area with a particular registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the permit holder a written notice that the party does not wish to be consulted about an access agreement for the entry.

488A Exploration activities to be carried out in accordance with access agreement

- (1) This section applies to the holder of an exploration permit if—
 - (a) the holder is carrying out activities in an area under, or purportedly under, the permit; and
 - (b) there is an access agreement for entry to the area under the permit.
- (2) The holder must not carry out the activities in a way that is inconsistent with the requirements of the access agreement.

489 Consultation matters

- (1) The purpose of the consultation is to minimise the impact of the low impact exploration permit on the exercise of native title rights and interests in relation to the land that will be affected under the permit, and to obtain any necessary access agreement for entry.
- (2) In particular, the consultation must be about the matters mentioned in section 26A(7) of the Commonwealth Native Title Act, as follows—
 - (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;

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- (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the permit;
 - (c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the permit and affects native title rights and interests, is to be done.

489A Access agreements

- (1) An access agreement for entry to an area under a low impact exploration permit may include provisions about any of the following—
 - (a) the periods during which the permit holder is to be permitted access to the area;
 - (b) the parts of the area the permit holder may access and the means by which access may be gained;
 - (c) the kinds of low impact activities that may be carried out on the area;
 - (d) the requirements to be observed by the permit holder when on the area;
 - (e) the things the permit holder needs to do to protect the environment in carrying out low impact activities on the area;
 - (f) compensation to be paid under part 7;
 - (g) how disputes arising in connection with the agreement are to be resolved;
 - (h) the way the agreement may be changed;
 - (i) other matters the parties to the agreement agree to provide for in the agreement.
- (2) Subsection (3) applies if there is an inconsistency between—

- (a) a provision of an access agreement; and
- (b) either of the following—
 - (i) a provision of this Act;
 - (ii) a condition of an exploration permit.
- (3) The provision of the Act or condition of the exploration permit prevails.

490 Consultation period and consultation period advice day

- (1) The *consultation period*, for entry to an area—
 - (a) starts 1 month after the consultation period advice day for entry to the area; and
 - (b) ends 2 months after it starts.
- (2) The *consultation period advice day*, for entry to an area, is the day the notice is given under subsection (4).
- (3) The consultation period advice day—
 - (a) must not be before the permit holder was advised of the amount of security decided by the Minister under section 144; and
 - (b) must not be less than 3 months after the application notice relating to the low impact exploration permit was given, or, if a replacement notice was given under section 487, the day the replacement notice was given.
- (4) The permit holder must give notice of the day on which the consultation period for entry to the area is to start, and the area to which the consultation in the consultation period is to relate, to—
 - (a) each entity that is a registered native title party for land included in the area; and
 - (b) the chief executive.
- (5) The notice given under subsection (4) must contain a clear description of the area to be entered and its location, and a description of the nature of the low impact activities proposed for the area.

491 Parties may seek mediation

- (1) If, at the end of the consultation period for entry to an area, an access agreement for entry to the area has not been obtained between the permit holder and a registered native title party for the area, either party may ask the chief executive to hold a conference for mediation about the access agreement.
- (2) Part 10, division 1B applies to the conference as if the request were a request made under section 335F(2)(a) by an owner of land mentioned in section 335F(2)(a).
- (3) Despite section 335H(3), the registered native title party or the permit holder may be represented at the conference by a lawyer.
- (4) Subject to any order made under section 335I, a party to the conference must pay the party's own costs for the conference.

491A Decision by tribunal

- (1) If an access agreement for entry to an area is not obtained within 1 month after the chief executive has been asked to hold a conference for mediation about the agreement, the permit holder or the registered native title party may ask the chief executive to refer the matter to the tribunal for a decision.
- (2) If the chief executive is asked to refer the matter to the tribunal for a decision—
 - (a) the chief executive must refer the matter; and
 - (b) the tribunal must decide the terms of the access agreement.
- (3) When the tribunal decides the terms of the access agreement—
 - (a) subject to any order made by the tribunal in the matter, the access agreement decided by the tribunal has effect as an access agreement as if the registered native title party and the permit holder had executed it; and

- (b) the tribunal must also make a compensation decision or compensation trust decision for the registered native title party under part 7.

492 Notice of access agreement

The permit holder must, as soon as practicable after an access agreement for entry to an area is obtained, but in any event before the holder first enters the area, give a copy of the access agreement to the chief executive.

493 Chief executive may recommend action

- (1) The chief executive may recommend action to the Minister to address any matter raised by a registered native title party in relation to an access agreement.
- (2) The Minister may give the exploration permit holder the directions the Minister considers appropriate about the recommended action.
- (3) A failure by the holder to comply with the Minister's directions is taken to be a breach of the conditions of the exploration permit.

Division 4 High impact exploration permits

522 Application of div 4

- (1) This division applies to the granting of a proposed exploration permit if—
 - (a) the exploration permit is a high impact exploration permit; and
 - (ab) the application for the exploration permit was lodged on or before 31 March 2003; and
 - (b) the granting of the exploration permit is an act—
 - (i) that affects native title rights and interests; and

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- (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.
 - (2) However, this division applies to the granting of the proposed exploration permit—
 - (a) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land the subject of the exploration permit is non-exclusive land.
 - (3) The requirements of this division are additional to the requirements of chapter 4.

523 Requirements for grant

- (1) The additional requirements applying under part 6, division 4 for the granting of a proposed mining lease also apply for the granting of the proposed high impact exploration permit.
- (2) The requirements apply with necessary changes.

524 Applying pt 6, div 4 for grant

- (1) This section—
 - (a) applies for applying the provisions of part 6, division 4; and
 - (b) does not limit section 523.
- (2) For applying section 652, section 652(3)(a) does not apply, and the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the period of 20 business days after the applicant is notified of the Minister's decision under section 144(1) or (3) of the amount of security to be deposited if the permit is granted.
- (3) For applying section 669, the pre-referral period is—

- (a) the period of 6 months starting on the notification day (native title issues); or
 - (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time.
- (4) For applying part 6, division 4, subdivisions 4 and 5, if the proposed exploration permit is referred to the tribunal for a native title issues decision, sections 671 and 672 do not apply, but the chief executive must fix a date for a hearing for the native title issues decision, including the hearing of any objections lodged under section 668 as applied under this section.
- (5) Sections 675(2), 681(4) and (5), 682 and 688 and part 6, division 4, subdivision 7 do not apply.
- (6) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision.
- (7) Section 680 does not apply, but the native title issues decision must be complied with by the Minister unless it is overruled under part 6, division 4, subdivision 6.
- (8) A reference in part 6, division 4 to a provision of chapter 6, part 1 is taken to be a reference to a corresponding provision of chapter 4.

Division 5 Renewals of exploration permits

525 Application of div 5

- (1) This division applies to the renewal of an exploration permit if—
- (a) the exploration permit is a low impact exploration permit; and
 - (ab) the application for the renewal of the exploration permit was lodged on or before 31 March 2003; and

- (b) the renewal of the exploration permit is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.
- (2) However, this division applies to the renewal of an exploration permit mentioned in subsection (1) only to the extent that the area of the exploration permit is non-exclusive land.
- (5) This division also applies to the renewal of an exploration permit if—
 - (a) the exploration permit is a high impact exploration permit; and
 - (ab) the application for the renewal of the exploration permit was lodged on or before 31 March 2003; and
 - (b) the renewal of the exploration permit is an act—
 - (i) that affects native title rights and interests; and
 - (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.
- (6) However, this division applies to the renewal of an exploration permit mentioned in subsection (5) only to the extent that the area of the exploration permit is non-exclusive land.
- (7) This division applies to the renewal of an exploration permit mentioned in subsection (1) or (5) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea.

- (8) The requirements of this division are additional to the requirements of chapter 4.
- (9) In this section—
 - renewal*, of an exploration permit, includes—
 - (a) the re-grant of the exploration permit; and
 - (b) the re-making of the exploration permit; and
 - (c) the extension of the term of the exploration permit.

526 Requirements for renewal—applying div 2

- (1) If this division applies to the renewal of an exploration permit because of section 525(1), the additional requirements applying under division 2 for the granting of a low impact exploration permit also apply for the renewal.
- (2) The requirements apply with necessary changes.

529 Requirements for renewal—applying div 4

- (1) If this division applies to the renewal of an exploration permit because of section 525(5), the additional requirements applying under division 4 for the granting of a high impact exploration permit on non-exclusive land also apply for the renewal.
- (2) The requirements apply with necessary changes.

530 Applying div 4 for renewal

- (1) This section—
 - (a) applies for applying the provisions of division 4; and
 - (b) does not limit section 529.
- (2) For applying section 524, subsections (3) and (4) of this section are taken to be included in section 524.
- (3) The tribunal must, before making its native title issues decision, ask the Minister about the extent to which the Minister is satisfied that the holder of the exploration permit

proposed to be renewed has complied with the conditions of the exploration permit.

- (4) For applying section 677, the tribunal must also consider information received from the Minister under subsection (3).

Division 6 Requirements for subsidiary approvals

531 Application of div 6

- (1) This division applies to the following—
- (a) the variation of the conditions of a low impact exploration permit over non-exclusive land to allow for activities not limited to low impact activities;
 - (c) the variation of the conditions of an exploration permit granted on land where native title has been extinguished to include non-exclusive land;
 - (d) the addition, under section 176A, of land to an exploration permit granted over land where native title has been extinguished to include non-exclusive land.
- (2) However, this division applies to the variation or addition only if—
- (aa) the application for the variation of conditions or addition of land was lodged on or before 31 March 2003; and
 - (a) either of the following applies—
 - (i) for the variation of conditions—were the exploration permit to be granted again, but containing only the varied conditions, the granting would be an act affecting native title rights and interests;
 - (ii) for the addition of land—were the exploration permit to be granted again, but only for the added land, the granting would be an act affecting native title rights and interests; and
 - (b) either of the following applies—

- (i) the variation or addition is an act to which the right to negotiate provisions would have otherwise applied, and the variation or addition is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act;
 - (ii) the variation or addition is an act in respect of which the right to negotiate provisions would have otherwise had effect, and both of the following apply—
 - (A) a determination is in force under section 43(1) of the Commonwealth Native Title Act about alternative provisions applying to the variation or addition;
 - (B) this subparagraph is included in the alternative provisions.
- (3) This division applies to the variation or addition only to the extent that the variation or addition relates to a place that is on the landward side of the mean high-water mark of the sea.
- (4) The requirements of this division are additional to the requirements of chapter 4.

532 Requirements for variation—low impact exploration permit

For the variation of the conditions of a low impact exploration permit to allow for activities not limited to low impact activities on non-exclusive land, division 4 applies, with necessary changes, as if the variation were the granting of a high impact exploration permit.

534 Requirements for variation or addition—other exploration permits

- (1) This section applies to the variation of the conditions of an exploration permit granted only over land where native title has been extinguished to include non-exclusive land.

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- (2) This section also applies to the addition, under section 176A, of land to an exploration permit granted only over land where native title has been extinguished to include non-exclusive land.
 - (3) If the variation or addition is only for low impact activities, division 2 applies, with necessary changes, as if the variation or addition were the granting of the exploration permit.
 - (6) If the variation or addition is for activities not limited to low impact activities on non-exclusive land, division 4 applies, with necessary changes, as if the variation or addition were the granting of the exploration permit.

Part 5 Native title provisions for mineral development licences

Division 1 Preliminary

535 Purpose of pt 5

- (1) The purpose of this part is—
 - (a) to state additional requirements that apply for—
 - (i) the granting of a proposed mineral development licence, or the variation or renewal of a mineral development licence, under chapter 5 if the licence is a low impact mineral development licence over non-exclusive land; and
 - (ii) the exercise of the entitlement, under a low impact mineral development licence, to enter non-exclusive land; and
 - (b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A of the Commonwealth Native Title Act.

- (2) The purpose of this part is also—
- (a) to state additional requirements that apply for the granting of a proposed mineral development licence, or the variation or renewal of a mineral development licence, under chapter 5 if the licence is a high impact mineral development licence over non-exclusive land; and
 - (b) in stating the additional requirements, to provide alternative provisions under section 43 of the Commonwealth Native Title Act.

536 Limited application of pt 5 to mineral development licence in approved opal or gem mining area

This part does not apply to an act relating to a mineral development licence in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act.

537 Meaning of *low impact mineral development licence*

For this part, a *low impact mineral development licence* is a mineral development licence that—

- (a) is granted over an area that is, or includes, non-exclusive land; and
- (b) has a condition that, to the extent that the area of the licence is non-exclusive land, only low impact activities may be carried out.

538 Meaning of *low impact activity*

- (1) For this part, a *low impact activity*, for a mineral development licence, means the following activities—

- (a) aerial surveys;

Examples—

geological, geophysical, photogrammetric and topographic aerial surveys

- (b) geological and surveying field work that does not involve clearing;

Examples—

- flagging of sites and sample locations
- geological reconnaissance and field mapping
- surveying that does not involve clearing

- (c) sampling by hand methods;

Examples—

- grab sampling
- mine tailings and mine mullock sampling
- panning and sieving
- rock chip sampling
- stream sediment sampling (disturbed and undisturbed samples)
- soil sampling (disturbed and undisturbed samples)
- water sampling

- (d) ground-based geophysical surveys that do not involve clearing;

Examples—

- potential-field methods of surveying, including, for example, gravity, magnetic and radiometric surveys
- electrical methods of surveying, including, for example, electromagnetic, ground-penetrating radar, induced polarisation and resistivity surveys
- seismic methods of surveying, including, for example, 'hammer', refraction and vibration-sourced surveys

- (e) drilling and activities associated with drilling that—

- (i) do not include clearing or excavation, other than the minimum necessary to establish a drill pad for a mobile rig; and
- (ii) do not include clearing or excavation for access to a drill site; and

- (iii) do not include side hill excavation for access or drill pads as would be necessary on steep slopes; and
- (iv) do not include drilling in a watercourse or stream diversion; and
- (v) do not include clearing in densely vegetated areas;
- (f) environmental field work that does not involve clearing;
Examples—
 - cultural heritage, environmental and geobotanical surveys
 - environmental monitoring
- (g) investigations associated with mine feasibility and development.
Examples—
 - engineering and design studies
 - environmental studies and monitoring

(2) In this section—

clearing means—

- (a) in relation to grass, scrub or bush—the removal of vegetation by disturbing root systems and exposing underlying soil, but does not include—
 - (i) the flattening or compaction of vegetation by vehicles if the vegetation remains living; or
 - (ii) the slashing or mowing of vegetation to facilitate access tracks; or
 - (iii) the clearing of noxious or introduced plant species; and
- (b) in relation to trees—cutting down, ringbarking or pushing over.

excavation means the use of machinery to dig below the top soil horizon, but does not include—

- (a) minor levelling of a site to allow a drill rig to operate on a level surface for safety reasons; or

- (b) the construction of a small sump for operational purposes.

top soil horizon means the top level or layer of soil that is generally less than 30cm thick.

539 Meaning of *high impact mineral development licence*

For this part, a *high impact mineral development licence* is a mineral development licence that—

- (a) is granted over land that is, or includes, non-exclusive land; and
- (b) allows activities to be carried out that are not limited to low impact activities.

Division 2 Low impact mineral development licences

Subdivision 1 Preliminary

540 Application of div 2

- (1) This division applies to the granting of a proposed mineral development licence if—
 - (a) the mineral development licence is a low impact mineral development licence; and
 - (ab) the application for the mineral development licence was lodged on or before 31 March 2003; and
 - (b) the granting of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and

- (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.
- (2) However, this division applies to the granting of the proposed mineral development licence—
 - (a) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land the subject of the mineral development licence is non-exclusive land.
- (3) The requirements of this division are additional to the requirements of chapter 5.

541 Definitions for div 2

In this division—

access agreement, for entry to an area under a low impact mineral development licence, means an agreement between the licence holder and a registered native title party for the area concerning the holder's access to the area.

applicant means the applicant for the proposed low impact mineral development licence.

application notice see section 542(1).

consultation period see section 546(1).

consultation period advice day see section 546(2).

registered native title party, for an area the subject of a low impact mineral development licence, means—

- (a) from the start of the consultation period advice day for entry to the area until immediately before the start of the consultation period for entry to the area—an entity that is, on the consultation period advice day, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant; and

- (b) from the start of the consultation period—an entity that is, on the first day of the consultation period, in relation to land included in the area—
 - (i) a registered native title body corporate; or
 - (ii) a registered native title claimant.

Subdivision 2 Notification requirements

542 Requirement to notify

- (1) The applicant must give written notice (the *application notice*) of the applicant's intention to lodge an application for a low impact mineral development licence, or of the lodgement of the application, to—
 - (a) each native title notification party for the land the subject of the proposed mineral development licence; and
 - (b) the Native Title Registrar.
- (2) The notice must be given no earlier than 1 month before the lodgement, and no later than—
 - (a) 10 business days after the lodgement; or
 - (b) if, under section 543, the chief executive has given a direction for the giving of a new written notice—the end of the period nominated in the direction.
- (3) The notice must state the following—
 - (a) the name and postal address of the applicant;
 - (b) whether or not the application has been lodged;
 - (c) a clear description of the area, and its location;
 - (d) details of the activities proposed for the area;
 - (e) an outline of the expected impact on the land of the proposed activities;

- (f) that the applicant must not act under the licence applied for to enter non-exclusive land unless the applicant has an access agreement for entry to the land.

543 Notification of chief executive

- (1) Within 5 business days after the applicant has complied, or purportedly complied, with the requirements of section 542, the applicant must give the chief executive information in the approved form about the applicant's compliance with section 542.
- (2) A copy of the written notice given under section 542(1) must be attached to the approved form.
- (3) If the chief executive is satisfied that a written notice given, or purportedly given, under section 542 has not been given in accordance with the requirements of section 542(1) and (2), or does not comply with the requirements of section 542(3), the chief executive must—
 - (a) give the applicant a written direction to give a new written notice under section 542; and
 - (b) in the direction, nominate a period within which the direction must be complied with.
- (4) The new notice, when given, must—
 - (a) state that it is a replacement notice; and
 - (b) identify the previous notice.

Subdivision 3 Consultation and access agreement requirements before entry

544 Requirement for consultation and access agreement

- (1) It is a condition of a low impact mineral development licence that the licence holder must not act under the licence to enter, for the first time, any area of non-exclusive land unless the holder has consulted with each registered native title party for the area.

- (2) However, the condition does not require consultation with a registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the licence holder a written notice that the party does not wish to be consulted about the proposed activities stated in the application notice.
- (3) It is a condition of a low impact mineral development licence that the licence holder must not act under the licence to enter, for the first time, any area of non-exclusive land unless the holder has an access agreement for entry to the area with each registered native title party for the area, obtained after the start of the consultation period for entry to the area.
- (4) However, the condition does not require an access agreement for entry to the area with a particular registered native title party if, at any time after the start of the consultation period for entry to the area, the registered native title party gives the licence holder a written notice that the party does not wish to be consulted about an access agreement for the entry.

544A Mineral development activities to be carried out in accordance with access agreement

- (1) This section applies to the holder of a mineral development licence if—
 - (a) the holder is carrying out activities in an area under, or purportedly under, the licence; and
 - (b) there is an access agreement for entry to the area under the licence.
- (2) The holder must not carry out the activities in a way that is inconsistent with the requirements of the access agreement.

545 Consultation matters

- (1) The purpose of the consultation is to minimise the impact of the low impact mineral development licence on the exercise of native title rights and interests in relation to the land that will be affected under the licence, and to obtain any necessary access agreement for entry.

- (2) In particular, the consultation must be about the matters mentioned in section 26A(7) of the Commonwealth Native Title Act, as follows—
- (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;
 - (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the licence;
 - (c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the licence and affects native title rights and interests, is to be done.

545A Access agreements

- (1) An access agreement for entry to an area under a low impact mineral development licence may include provisions about any of the following—
- (a) the periods during which the licence holder is to be permitted access to the area;
 - (b) the parts of the area the licence holder may access and the means by which access may be gained;
 - (c) the kinds of low impact activities that may be carried out on the area;
 - (d) the requirements to be observed by the licence holder when on the area;
 - (e) the things the licence holder needs to do to protect the environment in carrying out low impact activities on the area;

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- (f) compensation to be paid under part 7;
 - (g) how disputes arising in connection with the agreement are to be resolved;
 - (h) the way the agreement may be changed;
 - (i) other matters the parties to the agreement agree to provide for in the agreement.
- (2) Subsection (3) applies if there is an inconsistency between—
- (a) a provision of an access agreement; and
 - (b) either of the following—
 - (i) a provision of this Act;
 - (ii) a condition of a mineral development licence.
- (3) The provision of the Act or condition of the mineral development licence prevails.

546 Consultation period and consultation period advice day

- (1) The *consultation period*, for entry to an area—
- (a) starts 1 month after the consultation period advice day for entry to the area; and
 - (b) ends 2 months after it starts.
- (2) The *consultation period advice day*, for entry to an area, is the day the notice is given under subsection (4).
- (3) The consultation period advice day must not be less than 3 months after the application notice relating to the low impact mineral development licence was given, or, if a replacement notice was given under section 543, the day the replacement notice was given.
- (4) The licence holder must give notice of the day on which the consultation period for entry to the area is to start, and the area to which the consultation in the consultation period is to relate, to—
- (a) each entity that is a registered native title party for land included in the area; and

- (b) the chief executive.
- (5) The notice given under subsection (4) must contain a clear description of the area to be entered and its location, and a description of the nature of the low impact activities proposed for the area.

547 Parties may seek mediation

- (1) If, at the end of the consultation period for entry to an area, an access agreement for entry to the area has not been obtained between the licence holder and a registered native title party for the area, either party may ask the chief executive to hold a conference for mediation about the access agreement.
- (2) Chapter 13, part 2 applies to the conference as if the request were a request made under section 335F(2)(a) by an owner of land mentioned in section 335F(2)(a).
- (3) Despite section 335H(3), the registered native title party or the licence holder may be represented at the conference by a lawyer.
- (4) Subject to any order made under section 335I, a consultation party must pay the party's own costs for the conference.

547A Decision by tribunal

- (1) If an access agreement for entry to an area is not obtained within 1 month after the chief executive has been asked to hold a conference for mediation about the agreement, the licence holder or the registered native title party may ask the chief executive to refer the matter to the tribunal for a decision.
- (2) If the chief executive is asked to refer the matter to the tribunal for a decision—
 - (a) the chief executive must refer the matter; and
 - (b) the tribunal must decide the terms of the access agreement.
- (3) When the tribunal decides the terms of the access agreement—

- (a) subject to any order made by the tribunal in the matter, the access agreement decided by the tribunal has effect as an access agreement as if the registered native title party and the licence holder had executed it; and
- (b) the tribunal must also make a compensation decision or compensation trust decision for the registered native title party under part 7.

548 Notice of access agreement

The licence holder must, as soon as practicable after an access agreement for entry to an area is obtained, but in any event before the holder first enters the area, give a copy of the access agreement to the chief executive.

549 Chief executive may recommend action

- (1) The chief executive may recommend action to the Minister to address any matter raised by a registered native title party in relation to an access agreement.
- (2) The Minister may give the mineral development licence holder the directions the Minister considers appropriate about the recommended action.
- (3) A failure by the holder to comply with the Minister's directions is taken to be a breach of the conditions of the mineral development licence.

Division 4 High impact mineral development licences

579 Application of div 4

- (1) This division applies to the granting of a proposed mineral development licence if—
 - (a) the mineral development licence is a high impact mineral development licence; and

- (ab) the application for the mineral development licence was lodged on or before 31 March 2003; and
 - (b) the granting of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and
 - (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.
- (2) However, this division applies to the granting of the proposed mineral development licence—
- (a) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land the subject of the mineral development licence is non-exclusive land.
- (3) The requirements of this division are additional to the requirements of chapter 5.

580 Requirements for grant

- (1) The additional requirements applying under part 6, division 4 for the granting of a proposed mining lease also apply for the granting of the proposed high impact mineral development licence.
- (2) The requirements apply with necessary changes.

581 Applying pt 6, div 4 for grant

- (1) This section—
 - (a) applies for applying the provisions of part 6, division 4; and
 - (b) does not limit section 580.

- (2) For applying section 652, section 652(3)(a) does not apply, and the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the period of 20 business days after the applicant is notified of the Minister's decision under section 190(1) and (2) of the amount of security to be deposited if the licence is granted.
- (3) For applying section 669, the pre-referral period is—
 - (a) the period of 6 months starting on the notification day (native title issues); or
 - (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time.
- (4) For applying part 6, division 4, subdivisions 4 and 5, if the proposed mineral development licence is referred to the tribunal for a native title issues decision, sections 671 and 672 do not apply, but the chief executive must fix a date for a hearing for the native title issues decision, including the hearing of any objections lodged under section 668 as applied under this section.
- (5) Sections 675(2), 681(4) and (5) and 682 and part 6, division 4, subdivision 7 do not apply.
- (6) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision.
- (7) Section 680 does not apply, but the native title issues decision must be complied with by the Minister unless it is overruled under part 6, division 4, subdivision 6.
- (8) A reference in part 6, division 4 to a provision of chapter 6, part 1 is taken to be a reference to a corresponding provision of chapter 5.

Division 5 Renewals of mineral development licences

582 Application of div 5

- (1) This division applies to the renewal of a mineral development licence if—
 - (a) the mineral development licence is a low impact mineral development licence; and
 - (ab) the application for the renewal of the mineral development licence was lodged on or before 31 March 2003; and
 - (b) the renewal of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.
- (2) However, this division applies to the renewal of a mineral development licence mentioned in subsection (1) only to the extent that the area of the mineral development licence is non-exclusive land.
- (5) This division also applies to the renewal of a mineral development licence if—
 - (a) the mineral development licence is a high impact mineral development licence; and
 - (ab) the application for the renewal of the mineral development licence was lodged on or before 31 March 2003; and
 - (b) the renewal of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and

- (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.
- (6) However, this division applies to the renewal of a mineral development licence mentioned in subsection (5) only to the extent that the area of the mineral development licence is non-exclusive land.
- (7) This division applies to the renewal of a mineral development licence mentioned in subsection (1) or (5) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea.
- (8) The requirements of this division are additional to the requirements of chapter 5.
- (9) In this section—
renewal, of a mineral development licence, includes—
 - (a) the re-grant of the mineral development licence; and
 - (b) the re-making of the mineral development licence; and
 - (c) the extension of the term of the mineral development licence.

583 Requirements for renewal—applying div 2

- (1) If this division applies to the renewal of a mineral development licence because of section 582(1), the additional requirements applying under division 2 for the granting of a low impact mineral development licence also apply for the renewal.
- (2) The requirements apply with necessary changes.

586 Requirements for renewal—applying div 4

- (1) If this division applies to the renewal of a mineral development licence because of section 582(5), the additional requirements applying under division 4 for the granting of a high impact mineral development licence on non-exclusive land also apply for the renewal.
- (2) The requirements apply with necessary changes.

587 Applying div 4 for renewal

- (1) This section—
 - (a) applies for applying the provisions of division 4; and
 - (b) does not limit section 586.
- (2) For applying section 581, subsections (3) and (4) of this section are taken to be included in section 581.
- (3) The tribunal must, before making its native title issues decision, ask the Minister about the extent to which the Minister is satisfied that the holder of the mineral development licence proposed to be renewed has complied with the conditions of the mineral development licence.
- (4) For applying section 677, the tribunal must also consider information received from the Minister under subsection (3).

Division 6 Requirements for subsidiary approvals

588 Application of div 6

- (1) This division applies to the following—
 - (a) the variation of the conditions of—
 - (i) a low impact mineral development licence to allow for activities not limited to low impact activities; or
 - (iii) a mineral development licence granted on land where native title has been extinguished to include non-exclusive land;

- (b) the addition, under section 208, of stated minerals to a mineral development licence;
 - (c) the addition, under section 226AA, of land to a mineral development licence granted over land where native title has been extinguished to include non-exclusive land.
- (2) However, this division applies to the variation or addition only if—
- (aa) the application for the variation of conditions or addition of stated minerals or land was lodged on or before 31 March 2003; and
 - (a) either of the following applies—
 - (i) for the variation of conditions—were the mineral development licence to be granted again, but containing only the varied conditions, the granting would be an act affecting native title rights and interests;
 - (ii) for the addition of minerals or land—were the mineral development licence to be granted again, but only for the added minerals or the added land, the granting would be an act affecting native title rights and interests; and
 - (b) either of the following applies—
 - (i) the variation or addition is an act to which the right to negotiate provisions would have otherwise applied, and the variation or addition is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act;
 - (ii) the variation or addition is an act in respect of which the right to negotiate provisions would have otherwise had effect, and both of the following apply—
 - (A) a determination is in force under section 43(1) of the Commonwealth Native Title Act about alternative provisions applying to the variation or addition;

(B) this subparagraph is included in the alternative provisions.

- (3) This division applies to the variation or addition only to the extent that the variation or addition relates to a place that is on the landward side of the mean high-water mark of the sea.
- (4) The requirements of this division are additional to the requirements of chapter 5.

589 Requirements for variation—low impact mineral development licence

For the variation of the conditions of a low impact mineral development licence to allow for activities not limited to low impact activities on non-exclusive land, division 4 applies, with necessary changes, as if the variation were the granting of a high impact mineral development licence.

591 Requirements for variation or addition—other mineral development licences

- (1) This section applies to the variation of the conditions of a mineral development licence granted only over land where native title has been extinguished to include non-exclusive land.
- (2) This section also applies to the addition, under section 226AA of land to a mineral development licence granted over land where native title has been extinguished to include non-exclusive land.
- (3) If the variation or addition is only for low impact activities, division 2 applies, with necessary changes, as if the variation or addition were the granting of the mineral development licence.
- (6) If the variation or addition is for activities not limited to low impact activities on non-exclusive land, division 4 applies, with necessary changes, as if the variation or addition were the granting of the mineral development licence.

592 Requirements for approval—adding minerals to mineral development licence

- (1) For the addition, under section 208, of stated minerals to a low impact mineral development licence, division 2 applies, with necessary changes, as if the addition were the granting of the mineral development licence.
- (4) For the addition, under section 208, of stated minerals to a high impact mineral development licence on non-exclusive land, division 4 applies, with necessary changes, as if the addition were the granting of the mineral development licence.

Part 6 Native title provisions for mining leases**Division 1 Preliminary****593 Purpose of pt 6**

The purpose of this part is—

- (a) to state additional requirements that apply for the granting of a proposed mining lease, or variation or renewal of a mining lease under chapter 6, part 1 over non-exclusive land; and
- (b) in stating the additional requirements, to provide alternative provisions under section 43 of the Commonwealth Native Title Act.

594 Limited application of pt 6 to mining lease in approved opal or gem mining area

This part does not apply to an act relating to a mining lease in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate

provisions under section 26(2)(d) of the Commonwealth Native Title Act.

596 No re-opening of issues previously decided

- (1) This section applies if—
 - (a) the parties to a hearing under this part about the grant of a proposed mining lease (the *mining lease hearing*) are identical to the parties to an earlier relevant agreement or hearing; and
 - (b) an issue was decided in the relevant agreement or at the relevant hearing.
- (2) A party to the mining lease hearing must not, without the leave of the tribunal, seek to vary the decision on the issue.
- (3) In this section—

relevant agreement means an agreement under part 4 or 5, or under the right to negotiate provisions, about the grant of the exploration permit or mineral development licence for the area of the mining lease.

relevant hearing means a hearing under part 4 or 5, or under the right to negotiate provisions, about the grant of the exploration permit or mineral development licence for the land the subject of the proposed mining lease.

Division 4 Mining leases

Subdivision 1 Preliminary

650 Application of div 4

- (1) This division applies to the granting of a proposed mining lease if—
 - (a) the application for the mining lease was lodged on or before 31 March 2003; and
 - (b) the granting of the mining lease is an act—

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- (i) that affects native title rights and interests; and
 - (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.
- (2) However, this division applies to the granting of the proposed mining lease—
- (a) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea; and
 - (b) only to the extent that the land is non-exclusive land.
- (3) The requirements of this division are additional to the requirements of chapter 6, part 1.

651 Definitions for div 4

In this division—

applicant means the applicant for the proposed mining lease.

closing day (native title issues), for the proposed mining lease, see section 653(3).

combined hearing, for the proposed mining lease, see section 671.

consultation and negotiation parties, for the proposed mining lease, see section 658(1).

contract conditions see section 675(1).

land means the land the subject of the proposed mining lease.

Minister's decision see section 684(2).

native title issues decision see section 669(1).

negotiated agreement, for the proposed mining lease, see section 659(1).

notification day (native title issues), for the proposed mining lease, see section 653(2).

registered native title party see section 655.

urgency notice see section 683.

Subdivision 2 Notification and registration requirements

652 Requirement to notify

- (1) The applicant must give a written notice about the proposed mining lease to—
 - (a) all native title notification parties for the land; and
 - (b) the Native Title Registrar.
- (2) The applicant must also make sure that a public notice, containing the information contained in the written notice mentioned in subsection (1), is published in—
 - (a) a newspaper circulating generally in the area of the land; and
 - (b) a relevant special interest publication.
- (3) The written notice must be given under subsection (1), and the public notice must be published under subsection (2)—
 - (a) not earlier than 3 months before the application for the proposed mining lease is lodged; and
 - (b) not later than—
 - (i) the end of the period of 20 business days after the certificate of application for the proposed mining lease is endorsed by the chief executive under section 252(2); or
 - (iii) if, under section 654, the chief executive has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

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- (4) The written notice may be about more than 1 proposed mining lease.

653 Content of written notice

- (1) The written notice must state the following—
- (a) the name and postal address of the applicant;
 - (b) the following days for the proposed mining lease—
 - (i) the notification day (native title issues);
 - (ii) the closing day (native title issues);
 - (c) how a person may become a registered native title party;
 - (d) that registered native title parties have a right—
 - (i) to be consulted about the proposed mining lease; and
 - (ii) to object to the granting of the proposed mining lease; and
 - (iii) to negotiate with a view to reaching agreement about the granting of the proposed mining lease;

Note—

See sections 658, 659 and 668.

- (e) that an objection must—
 - (i) be made in writing in the approved form; and
 - (ii) be lodged with the chief executive at any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal for a native title issues decision; and
 - (iii) state the facts and circumstances relied on by the registered native title party in support of the ground of objection;
- (f) a clear description of the land, and its location;
- (g) a description of the nature of the proposed mining lease;
- (h) that the proposed mining lease, if granted, will be granted by the Minister;

- (i) how further information about the proposed mining lease, and about the matters mentioned in paragraph (d), can be obtained from the applicant and from the chief executive.
- (2) The **notification day (native title issues)** must be a day that may reasonably be assumed to be a day by which—
 - (a) the written notice will have been received by each person to whom it is to be given; and
 - (b) the public notice will have come to the attention of each person to whom the public notice is directed.
- (3) The **closing day (native title issues)** must be a day at least 3 months after the notification day (native title issues).

654 Notification of chief executive

- (1) Within 5 business days after the applicant has complied, or purportedly complied, with the requirements of sections 652 and 653, the applicant must give the chief executive information in the approved form about the applicant's compliance with sections 652 and 653.
- (2) The following must be attached to the approved form—
 - (a) a copy of the written notice given under sections 652 and 653(1);
 - (b) the page, or a copy of the page, of the newspaper mentioned in section 652(2)(a) that contained the public notice mentioned in section 652(2);
 - (c) the page, or a copy of the page, of the relevant special interest publication mentioned in section 652(2)(b) that contained the public notice mentioned in section 652(2).
- (3) The chief executive must give the applicant a written direction to give a new written notice, and publish a new public notice, under sections 652 and 653 if the chief executive is satisfied that 1 or more of the following applies—
 - (a) the giving of the written notice was not in accordance with the requirements of section 652(1) and (3);

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- (b) the content of the written notice was not in accordance with the requirements of section 653;
 - (c) the publication of the public notice was not in accordance with the requirements of section 652(2) and (3).
- (4) The written direction must nominate a period within which the direction must be complied with.
 - (5) The new written notice, when given, and the new public notice, when published, must—
 - (a) state that it is a replacement notice; and
 - (b) identify the previous notice.

655 Registered native title parties

- (1) An entity is a *registered native title party* depending on when the issue has to be considered.
- (2) On the closing day (native title issues), and at any time before it, each of the following entities is a *registered native title party*—
 - (a) a registered native title body corporate in relation to the land;
 - (b) a registered native title claimant in relation to the land.
- (3) At any time in the 1 month immediately following the closing day (native title issues), each of the following entities is a *registered native title party*—
 - (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues);
 - (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land—
 - (i) after the closing day (native title issues); and
 - (ii) as a result of a native title determination application containing a claim that was filed on or

- before the closing day (native title issues) and was entered on the register of native title claims in the 1 month immediately following the closing day (native title issues);
- (c) an entity that filed a native title determination application in the Federal Court in relation to the land on or before the closing day (native title issues).
- (4) At any time after the 1 month immediately following the closing day (native title issues), each of the following entities is a **registered native title party**—
- (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues);
- (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land as a result of a native title determination application containing a claim that was filed on or before the closing day (native title issues) and was entered on the register of native title claims as at the end of the 1 month immediately following the closing day (native title issues);
- (c) an entity that is a registered native title claimant in relation to the land, if the entity—
- (i) filed a native title determination application in the Federal Court on or before the closing day (native title issues); and
- (ii) was a registered native title claimant in relation to the land as at 1 month after the closing day (native title issues).
- (5) If a person (the **first person**) becomes a registered native title claimant because the first person replaces another person as the applicant in relation to a claimant application, and the other person is a registered native title party, the first person also replaces the other person as the registered native title party.

656 Advice to chief executive

- (1) As soon as practicable after the closing day (native title issues) for the proposed mining lease, the applicant must give the chief executive a list, in the approved form, of the names and addresses of—
 - (a) all registered native title parties as at the closing day (native title issues); and
 - (b) all entities that may become registered native title parties.
- (2) As soon as practicable after the end of 1 month after the closing day (native title issues) for the proposed mining lease, the applicant must give the chief executive a list in the approved form of the names and addresses of all entities that have become registered native title parties in the month.
- (3) Subsection (2) does not apply if at the closing day (native title issues), there were no entities that might have become registered native title parties.

657 Ending of additional requirements

- (1) The additional requirements provided for under this division stop applying for the proposed mining lease if, after 1 month after the closing day (native title issues)—
 - (a) there are no registered native title parties; or
 - (b) all registered native title parties certify in the approved form lodged with the chief executive that they do not object to the grant of the proposed mining lease and do not wish to be consulted about it.
- (2) However, if the Minister grants the proposed mining lease, and there are 1 or more registered native title parties, the holder of the mining lease must, within 20 business days after the holder receives notice of the grant, give a written notice complying with subsection (3) to each registered native title party.

Maximum penalty—100 penalty units.

- (3) The written notice must advise the granting of the mining lease and state any conditions of the mining lease.

Subdivision 3 Consultation and negotiation

658 Parties to consultation and negotiation

- (1) The parties to the consultation and negotiation required under this subdivision about the granting of the proposed mining lease are the following (the *consultation and negotiation parties* for the proposed mining lease)—
 - (a) the applicant;
 - (b) the registered native title parties;
 - (c) the State.
- (2) However, the State stops being a consultation and negotiation party for the proposed mining lease if the State and all the other consultation and negotiation parties for the proposed mining lease at any time agree, in the approved form lodged with the chief executive, that the State is not to be a consultation and negotiation party.
- (3) Also, if all the consultation and negotiation parties at any time agree, in the approved form lodged with the chief executive, that the State is to take a particular role in the consultation and negotiation, stated in the lodged approved form, the State may adopt the stated role, even though it is no longer a consultation and negotiation party.
- (4) A registered native title party is taken to stop being a consultation and negotiation party if the party lodges an approved form under section 657(1)(b).

659 Requirement for consultation and negotiation in good faith

- (1) The consultation and negotiation parties for the proposed mining lease must consult and negotiate in good faith with a view to obtaining the agreement of each of the registered native title parties (a *negotiated agreement*) to—

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- (a) the granting of the proposed mining lease; and
 - (b) any conditions to be complied with by the consultation and negotiation parties if the proposed mining lease is granted.
- (2) Also, as part of the consultation and negotiation—
- (a) the applicant—
 - (i) must consult the registered native title parties about ways of minimising the impact of the grant of the proposed mining lease on their registered native title rights and interests in relation to the land, including about—
 - (A) any access to the land; and
 - (B) the way in which anything authorised by the proposed mining lease might be done; and
 - (ii) for the consultation, must have regard to the guidelines set out in this subdivision for applicant consultation; and
 - (b) the registered native title parties—
 - (i) must consult the other consultation and negotiation parties about the effect of the proposed mining lease on their registered native title rights and interests; and
 - (ii) for the consultation, must have regard to the guidelines set out in this subdivision for registered native title party consultation.

660 Content of negotiation in good faith

- (1) Subsections (3) to (5) apply for the requirement under this subdivision to negotiate in good faith.
- (2) However, subject to those subsections, this subdivision does not limit the requirements that apply for negotiation in good faith.
- (3) A consultation and negotiation party must make every reasonable effort to reach agreement.

- (4) To negotiate in good faith, a consultation and negotiation party is not required to negotiate about issues unrelated or unconnected to the proposed mining lease.
- (5) A consultation and negotiation party is not required to negotiate about matters unrelated to the impact of the grant of the proposed mining lease on the registered native title rights and interests of registered native title parties.

661 Failure to negotiate

The failure of 1 consultation and negotiation party to negotiate in good faith can not be used to establish that another consultation and negotiation party has not negotiated in good faith.

662 Request for mediation

- (1) At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, a consultation and negotiation party may ask for mediation to help in resolving issues relevant to the consultation and negotiation.
- (2) If a consultation and negotiation party asks for mediation under subsection (1), mediation—
 - (a) must be conducted by—
 - (i) a mediator chosen by the consultation and negotiation parties; or
 - (ii) if the consultation and negotiation parties are not able to agree on a mediator and the party asks the tribunal to provide the mediation—the tribunal, or a mediator chosen by the tribunal; and
 - (b) does not extend the period that must elapse before the proposed mining lease may be referred to the tribunal, by action taken under section 669, for a native title issues decision; and

- (c) may continue after the period mentioned in paragraph (b) has elapsed if the consultation and negotiation parties agree; and
- (d) may end at any time—
 - (i) by decision of the mediator; or
 - (ii) by agreement of the consultation and negotiation parties.

663 Process for consultation and negotiation—applicant consultation

- (1) This section states guidelines for applicant consultation under this subdivision.
- (2) Within 4 months after the notification day (native title issues), the applicant should—
 - (a) give each registered native title party a true copy of the application for the proposed mining lease (but not the statement detailing the applicant’s financial and technical resources) and the endorsed certificate of application; and
 - (b) convene at least 1 meeting (*consultation meeting*) to provide a reasonable opportunity for all registered native title parties to be given a presentation about the proposed mining lease.
- (3) A consultation meeting may be—
 - (a) in a town or city in which there is an office of the representative Aboriginal/Torres Strait Islander body for the area that includes the land; or
 - (b) at another place agreed between the consultation and negotiation parties.
- (4) A consultation meeting should be convened at a time and place suitable for maximising attendance.
- (5) If the applicant has convened a consultation meeting under subsection (2)(b), the meeting is taken to have happened even though not all, or none, of the registered native title parties attended the meeting.

- (6) The presentation mentioned in subsection (2)(b) should be directed at providing registered native title parties with an understanding of the anticipated nature, extent and impact of the project authorised by the grant of the proposed mining lease.

664 Process for consultation and negotiation—registered native title parties consultation

- (1) This section states the guidelines for registered native title party consultation under this subdivision.
- (2) The consultation should be carried out as soon as practicable after the applicant consultation has been completed.
- (3) Each registered native title party should advise the other consultation and negotiation parties about the impact the party considers the grant of the proposed mining lease will have on the party's registered native title rights and interests.

665 Process for consultation and negotiation—taking account of existing rights, interests and use

Without limiting the scope of consultation and negotiation under this subdivision, the nature and extent of the following may be taken into account—

- (a) existing non-native title rights and interests in relation to the land;
- (b) existing use of the land by persons other than registered native title parties;
- (c) the practical effect of the exercise of any existing non-native title rights and interests mentioned in paragraph (a), and of the existing use mentioned in paragraph (b), on the exercise of native title rights and interests in relation to the land.

666 Process for consultation and negotiation—negotiated agreement with or without conditions attached

- (1) This section applies if a negotiated agreement is reached, whether or not the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted.
- (2) The consultation and negotiation parties must—
 - (a) give the chief executive—
 - (i) a written notice in the approved form stating that a negotiated agreement has been reached for the proposed mining lease; and
 - (ii) a copy of the signed negotiated agreement; and
 - (b) give a copy of the notice to the tribunal.
- (3) When the approved form has been lodged under subsection (2), the additional requirements provided for under this division, other than section 667, stop applying to the proposed mining lease.
- (4) However, if the Minister grants the proposed mining lease, the holder of the mining lease must, within 20 business days after the holder receives notice of the grant, give a written notice complying with subsection (5) to each registered native title party.

Maximum penalty—100 penalty units.
- (5) The written notice must advise the granting of the mining lease and state any conditions of the mining lease.

667 Process for consultation and negotiation—negotiated agreement with conditions attached

- (1) This section applies if a negotiated agreement is reached, and the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted.
- (2) The negotiated agreement has effect, if the proposed mining lease is granted, as if—

- (a) the conditions included in the agreement were the terms of a contract; and
 - (b) all the consultation and negotiation parties were parties to the contract; and
 - (c) if a registered native title party is a registered native title claimant—any individual included in the native title claim group concerned were a party to the contract.
- (3) Subsection (2) has effect in addition to any other effect that the negotiated agreement may have apart from under subsection (2).

668 Objections

- (1) At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, a registered native title party may lodge an objection to the proposed mining lease.
- (2) The objection—
- (a) must be made in writing in the approved form; and
 - (b) must be lodged with the chief executive; and
 - (c) must state the facts and circumstances relied on by the registered native title party in support of the ground of objection.
- (3) Anything about the amount or payment of compensation is not a ground for objection.
- (4) The registered native title party must also give a copy of the objection, and all material accompanying the objection, to the other consultation and negotiation parties and the tribunal as soon as practicable after the objection is lodged with the chief executive.
- (5) At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, the registered native title party may withdraw the objection by

lodging with the chief executive a written notice withdrawing the objection.

- (6) The registered native title party must also give a copy of the written notice withdrawing the objection to the other consultation and negotiation parties and the tribunal as soon as practicable after the withdrawal of the objection is lodged with the chief executive.
- (7) The registered native title party must withdraw the objection under this section if at any time a negotiated agreement is reached.
- (8) The registered native title party may object about the effect of the grant of the proposed mining lease on its registered native title rights and interests under this section only, and may not object under section 260 about the effect of the grant of the proposed mining lease on its registered native title rights and interests.
- (9) If at any time a person who has lodged an objection under this section stops being a registered native title party, the objection is taken to have been withdrawn.
- (10) However, an objection continues to have effect as an objection if the person who lodged the objection stops being a registered native title party because—
 - (a) the person is replaced by another person (the *replacing person*) under section 66B of the Commonwealth Native Title Act; or
 - (b) an approved determination of native title that native title exists is made, and immediately before the determination is made, the person is a registered native title claimant.
- (11) If an objection continues to have effect as an objection because of subsection (10)(a), the objection is taken to have been lodged by the replacing person.
- (12) If an objection continues to have effect as an objection because of subsection (10)(b), the objection is taken to have been lodged by the relevant registered native title body corporate.

- (13) An objection lodged under this section, if it is not withdrawn, must be given to the tribunal and must be heard by the tribunal in a combined hearing under subdivision 4.
- (14) However, the tribunal must not hear an objection if the objection has not been made in substantial compliance with this section.

Subdivision 4 Referral and native title issues decision

669 Referral of proposed mining lease to tribunal

- (1) If the pre-referral period has ended, but a negotiated agreement has not been reached, a consultation and negotiation party for the proposed mining lease may refer the proposed mining lease to the tribunal for a decision under this division (a *native title issues decision*).
- (2) The referral must be—
 - (a) lodged with the chief executive; and
 - (b) made in the approved form.
- (3) A copy of the approved form lodged with the chief executive must also be given to the other consultation and negotiation parties for the proposed mining lease.
- (4) If there has been no referral within 3 months after the end of the pre-referral period, the Minister may reject the application for the proposed mining lease.
- (5) If the pre-referral period has ended, and a registered native title party who lodged an objection under section 668 has not withdrawn the objection, the proposed mining lease is taken to have been referred to the tribunal under subsection (1).
- (6) In this section—

pre-referral period means—

 - (a) if an environmental impact statement for the proposed mining lease is not required to be prepared under another State Act or a Commonwealth Act—

- (i) the period of 6 months starting on the notification day (native title issues); or
 - (ii) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under subparagraph (i), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time; or
- (b) otherwise—the period which, out of the following periods, ends latest—
- (i) the period of 3 months starting on the day the environmental impact statement is publicly notified under the other State Act or the Commonwealth Act;
 - (ii) if the registered native title parties for the non-exclusive land and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time;
 - (iii) the period of 6 months starting on the notification day (native title issues).

670 Continuing negotiation

- (1) After the referral of the proposed mining lease to the tribunal, the consultation and negotiation parties for the proposed mining lease may continue to negotiate to reach a negotiated agreement before the native title issues decision is made.
- (2) If a negotiated agreement is reached, all referrals of the proposed mining lease to the tribunal are taken to be withdrawn, and the tribunal must not make a native title issues decision.

671 Combined hearing

- (1) A hearing for the grant of a proposed mining lease referred to the tribunal must include the following—

- (a) the hearing of any objections and other matters mentioned in section 268(1);
 - (b) the hearing for a native title issues decision, including the hearing of any objections lodged under section 668.
- (2) The hearing mentioned in subsection (1) is a ***combined hearing***.
- (3) The combined hearing must take place, unless a negotiated agreement has been reached.
- (4) All consultation and negotiation parties have the right to be heard at the combined hearing.

672 Fixing of date for combined hearing

- (1) Subsections (2) to (5) apply if the tribunal is required to fix under section 265 a hearing date for the combined hearing, but there has not yet been a referral (other than a referral that has been withdrawn) of the mining lease for a native title issues decision.
- (2) The tribunal may, if the applicant agrees, fix a hearing date for the application for the proposed mining lease, and any objections to the application, under section 265 as if the hearing were not a combined hearing.
- (3) At the hearing, the tribunal may—
- (a) proceed with the hearing of the application for the proposed mining lease, and any objections to the application, as if the hearing were not a combined hearing; and
 - (b) at an appropriate time adjourn the hearing.
- (4) However, as soon as practicable after a negotiated agreement is reached or the proposed mining lease is referred to the tribunal for a native title issues decision, the tribunal must reconvene the combined hearing.
- (5) The tribunal may defer fixing a date for the combined hearing until the proposed mining lease is referred to the tribunal for a native title issues decision.

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- (6) If the proposed mining lease has been referred to the tribunal for a native title issues decision, but the tribunal is not yet required under section 265 to fix a hearing date for the combined hearing, the tribunal must fix a date for the combined hearing when the tribunal is able to fix a date under section 265.

Subdivision 5 Requirements for combined hearing

673 Directions about conduct of combined hearing

At any time after the referral of the proposed mining lease for a native title issues decision, the tribunal may give directions to the consultation and negotiation parties, including directions about the filing and serving of the following—

- (a) a statement by the applicant that includes a copy of the material provided to the registered native title parties under subdivision 3;
- (b) a statement of impact by each registered native title party, setting out the effect the party considers the grant of the proposed mining lease will have on the party's registered native title rights and interests;
- (c) submissions by any of the consultation and negotiation parties on the matters the tribunal will be required to take into account for making its native title issues decision.

674 Issue of negotiation in good faith

- (1) If a consultation and negotiation party raises the issue of whether another consultation and negotiation party has complied with subdivision 3, including with the requirement for negotiation in good faith, the issue must be dealt with as a part of the combined hearing for the application for the grant of the proposed mining lease.
- (2) If at the combined hearing the tribunal is not satisfied that the applicant or the State has complied with subdivision 3,

including with the requirement for negotiation in good faith, it may adjourn the combined hearing to allow for the subdivision to be complied with by all the consultation and negotiation parties.

- (3) An adjournment under subsection (2) may only be for a maximum period of 3 months.
- (4) If the tribunal is satisfied that a registered native title party did not comply with subdivision 3, including with the requirement for negotiation in good faith, the tribunal may not adjourn the combined hearing on that ground alone.
- (5) However, the tribunal may take the failure of a consultation and negotiation party to comply with subdivision 3 into account in making its native title issues decision.
- (6) A consultation and negotiation party can not raise the issue of the State's compliance with subdivision 3, including the requirement for negotiation in good faith, on the ground that the State stopped being a consultation and negotiation party under section 658(2) or took a particular role under section 658(3).

675 Nature of native title issues decision

- (1) The native title issues decision must be 1 of the following—
 - (a) that the proposed mining lease may be granted;
 - (b) that the proposed mining lease may be granted, but subject to either or both of the following—
 - (i) that conditions, described or identified in the native title issues decision, are to be included in the mining lease;
 - (ii) that conditions (*contract conditions*), described or identified in the native title issues decision, are required to be complied with by 1 or more of the consultation and negotiation parties (even though the conditions are not included in the mining lease);
 - (c) that the proposed mining lease should not be granted.

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- (2) If, at the end of the combined hearing, the consultation and negotiation parties have not reached an agreement about compensation, the tribunal, whether or not an application has been made to the tribunal about compensation, must also make any compensation decision or compensation trust decision that is required to be made under part 7 before the mining lease is granted.
 - (3) The tribunal must not include a condition, whether or not a contract condition, that has the effect that a registered native title party is entitled to payments from the applicant worked out by reference to 1 or more of the following—
 - (a) the amount of profits to be made under the proposed mining lease;
 - (b) the amount of any income to be derived under the proposed mining lease;
 - (c) anything to be produced under the proposed mining lease.

676 Timing of tribunal's recommendation and native title issues decision

The tribunal must advise the Minister of its native title issues decision when the tribunal forwards its recommendation to the Minister under section 269(1).

677 Tribunal's native title issues decision

- (1) In making its native title issues decision, the tribunal must take into account the following—
 - (a) the effect of the grant of the proposed mining lease on—
 - (i) the enjoyment by the registered native title parties of their registered native title rights and interests; and
 - (ii) the way of life, culture and traditions of any of the registered native title parties; and

- (iii) the development of social, cultural and economic structures of any of the registered native title parties; and
 - (iv) the freedom of access by any of the registered native title parties to the land; and
 - (v) the freedom of any of the registered native title parties to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and
 - (vi) any area or site on the land of particular significance to the registered native title parties in accordance with their traditions;
 - (b) the interests, proposals, opinions or wishes of the registered native title parties in relation to the management, use or control of land in relation to which there are registered native title rights and interests of the registered native title parties that will be affected by the grant of the proposed mining lease;
 - (c) the economic or other significance of the grant of the proposed mining lease to Australia, Queensland, the area in which the land is located and Aboriginal peoples and Torres Strait Islanders who live in the area;
 - (d) any public interest in the granting of the proposed mining lease;
 - (e) any other matter the tribunal considers relevant.
- (2) In deciding the effect of the grant of the proposed mining on the matters mentioned in subsection (1)(a), the tribunal must also take into account the nature and extent of—
- (a) existing non-native title rights and interests in relation to the land; and
 - (b) existing use of the land or waters by persons other than the registered native title parties.
- (3) In complying with subsections (1) and (2) the tribunal must take into account all objections lodged under this division to the granting of the proposed mining lease, and any other documents lodged or filed under this division.

- (4) Taking into account the effect of the grant of the proposed mining lease on an area or site mentioned in subsection (1)(a)(vi) does not affect the operation of any law of the State for the preservation or protection of those areas or sites.
- (5) Before making the native title issues decision—
 - (a) the tribunal must establish whether there are any issues relevant to its decision on which the consultation and negotiation parties are currently in agreement; and
 - (b) if there are agreed issues under paragraph (a), and all the consultation and negotiation parties consent—the tribunal, in making its native title issues decision—
 - (i) must take the agreed issues into account; and
 - (ii) need not take into account the matters mentioned in subsection (1)(a) to (e) to the extent the matters are the subject of the agreed issues.

678 Deferred matters

- (1) As well as making the native title issues decision, the tribunal may make a decision about matters (the *deferred matters*) that—
 - (a) were the subject of negotiation between the consultation and negotiation parties; and
 - (b) under an agreement that includes all the consultation and negotiation parties, are to be the subject of further negotiation, or are to be decided in a way stated in the decision under this section; and
 - (c) are not reasonably capable of being decided when the native title issues decision is made; and
 - (d) are not directly relevant to the native title issues decision.
- (2) The tribunal must give a copy of its decision under this section to—
 - (a) the consultation and negotiation parties; and

- (b) if the State is not a consultation and negotiation party—the chief executive.
- (3) The tribunal’s decision under this section about the deferred matters is binding on all the consultation and negotiation parties.
- (4) If the decision under this section is that the deferred matters are to be decided by arbitration, and, after the decision is made, the consultation and negotiation parties can not agree on the way the arbitration is to take place, the tribunal, on the application of a consultation and negotiation party, has jurisdiction to decide the deferred matters.

679 General time requirement for making native title issues decision

- (1) The tribunal must take all reasonable steps to make sure that the native title issues decision is made within 6 months after the proposed mining lease is referred to the tribunal for the decision.
- (2) If the native title issues decision is not made within the 6 months, the tribunal must, as soon as practicable after the 6 months ends, give a written notice to the Minister—
 - (a) advising why the native title issues decision has not yet been made; and
 - (b) giving an estimate of when the decision is likely to be made.

680 Effect of native title issues decision

- (1) The native title issues decision must be complied with by the Minister unless the Minister overrules the native title issues decision under subdivision 6.
- (2) If the native title issues decision is that the proposed mining lease should not be granted, the tribunal may nevertheless recommend under section 269 that the application for the proposed mining lease should be granted.

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- (3) However, if subsection (2) applies, the Minister must not grant the proposed mining lease under section 271A(1) unless the Minister overrules the native title issues decision under section 681.

Subdivision 6 Overruling of native title issues decision

681 Minister may overrule native title issues decision

- (1) The Minister may overrule the native title issues decision, but only if—
- (a) it is in the interests of Queensland or in the national interest to overrule the native title issues decision; and
 - (b) the Minister overrules the decision within 2 months after the native titles issues decision is made.
- (2) If the Minister overrules the native title issues decision, the Minister must make a substituted decision.
- (3) The substituted decision—
- (a) must comply with the requirements of section 675(1) and (3) for a native title issues decision; and
 - (b) when made, takes the place of the native title issues decision.
- (4) The substituted decision can not overrule a compensation decision or compensation trust decision, for the granting of the proposed mining lease, already made by the tribunal under part 7.
- (5) If the substituted decision is that the proposed mining lease may be granted with or without conditions, the Minister must refer the matter to the tribunal for—
- (a) if a compensation decision or compensation trust decision has already been made under part 7 for the granting of the proposed mining lease—a new compensation decision or compensation trust decision; or

- (b) otherwise—a compensation decision or compensation trust decision under part 7 for the granting of the proposed mining lease.
- (6) The Minister must give a copy of the substituted decision to the tribunal and the consultation and negotiation parties.

682 Effect of overruling

- (1) This section applies if the Minister makes a substituted decision under section 681.
- (2) If the substituted decision is that the proposed mining lease may be granted on conditions to be included in the mining lease, the Minister must grant the lease on those conditions.
- (3) If the substituted decision is that the proposed mining lease not be granted, the Minister must not grant the lease.

Subdivision 7 Special provisions about completion of combined hearing and making of native titles issues decision

683 Giving of urgency notice

- (1) This section applies if the tribunal's native titles issues decision has not been made, and a negotiated agreement has not been reached, 4 months after the proposed mining lease was referred to the tribunal for a native title issues decision, other than under a referral that was later withdrawn.
- (2) The Minister may give the tribunal a written notice (an *urgency notice*) asking the tribunal to complete its combined hearing and make its native title issues decision within the period stated in the written notice.
- (3) The period stated under subsection (2) must be a period ending after the end of the period of 6 months after the proposed mining lease was referred to the tribunal for a native title issues decision.

684 Minister's decision if tribunal recommendation delayed

- (1) This section applies if—
 - (a) the Minister has given the tribunal an urgency notice under section 683 in relation to the proposed mining lease; and
 - (b) the period stated in the urgency notice for the tribunal to complete its combined hearing and make its native title issues decision has ended; and
 - (c) the tribunal has not made its native title issues decision; and
 - (d) the consultation required under this subdivision (including under this section) for the making of a decision by the Minister has happened.
- (2) The Minister may make a decision (the *Minister's decision*) under this section about the native title issues decision.
- (3) The Minister may make a decision under this section that has the effect of a native title issues decision that the proposed mining lease may be granted, with or without conditions and whether or not contract conditions, only if the Minister has first consulted with the Commonwealth Minister about the making of the decision.
- (4) The Minister may make a decision under this section only if—
 - (a) the making of the native title issues decision is unlikely to happen within a period that is reasonable, taking into account all the circumstances; and
 - (b) it is in the interests of Queensland to make the decision at the time it is made.
- (5) Subsection (4)(a) and (b) does not stop the Minister from taking into account other matters in deciding whether to make a decision under this section.

685 Consultation before Minister's decision

- (1) Before making the Minister's decision, the Minister must give a written notice under subsections (2) and (3).

- (2) The Minister must give written notice to the tribunal requiring it, by the end of the day stated in the notice, to give the Minister and each consultation and negotiation party a summary of the material presented to the tribunal in the course of the tribunal considering what the native title issues decision should be.
- (3) The Minister must give a written notice to each consultation and negotiation party stating the following—
 - (a) that the Minister is considering making the decision;
 - (b) that each consultation and negotiation party—
 - (i) may, by the end of the day stated in the written notice, give the Minister any submission or other material that the consultation and negotiation party wants the Minister to take into account in deciding whether to make the decision and, if so, its terms; and
 - (ii) if the consultation and negotiation party gives the Minister a submission or other material, must also give each of the other consultation and negotiation parties a copy of the submission or other material; and
 - (iii) may, within 5 business days after the day stated in the written notice, in response to any submission or other material given by any other consultation and negotiation party or the tribunal, give the Minister any further submission or other material that the consultation and negotiation party wants the Minister to take into account.
- (4) The day stated in the written notices given under subsections (2) and (3) must be—
 - (a) the same day in all of the written notices given under the subsections; and
 - (b) a day by which, in the Minister's opinion, it is reasonable to assume that all of the written notices given will have been received by, or will otherwise have come to the attention of, the persons who must be notified under this section.

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- (5) If the Minister complies with subsection (1), there is no requirement for any person to be given any further hearing before the Minister makes the decision.
- (6) In making the decision, the Minister—
- (a) must take into account—
 - (i) any submission or material provided by a consultation and negotiation party under subsection (3), but only if the consultation and negotiation party has complied with the Minister's written notice in the way mentioned in subsection (3)(b)(ii); and
 - (ii) any report provided by the tribunal; and
 - (iii) the Minister's consultation with the Commonwealth Minister under this subdivision; and
 - (iv) any issues about which the consultation and negotiation parties have agreed in writing and advised to the Minister; and
 - (b) may, but need not, take into account any other matter or thing.
- (7) The fact that no submission or other material of the kind mentioned in subsection (3) has been given to the Minister before the end of the day stated in the written notices does not stop the Minister from making the decision.

686 Minister's decisions generally

- (1) The Minister's decision has effect as a native title issues decision.
- (2) The Minister's decision must, as for a native title issues decision for section 675, be 1 of the following—
- (a) that the proposed mining lease may be granted;
 - (b) that the proposed mining lease may be granted, but subject to either or both of the following—

- (i) that conditions, described or identified in the Minister's decision, are to be included in the mining lease;
 - (ii) contract conditions;
 - (c) that the proposed mining lease should not be granted.
- (3) If the Minister's decision is a decision mentioned in subsection (2)(a) or (b), the Minister must refer the matter to the tribunal for a compensation decision or compensation trust decision under part 7.
- (4) The Minister does not have a duty to make a Minister's decision, despite the following—
 - (a) the giving of any notice by the Minister;
 - (b) the giving of any submission or other material to the Minister;
 - (c) any request by a consultation and negotiation party for the Minister to make the decision;
 - (d) any other circumstance.
- (5) The Minister's decision must be made by the Minister personally.
- (6) The Minister must table in the Legislative Assembly a report containing the Minister's decision, and the reasons for the decision, within 15 sitting days after making the decision.

Subdivision 8 Miscellaneous matters about grant

687 Contract conditions

- (1) If the Minister grants the proposed mining lease, a contract condition has effect, in addition to any effect that it may have other than under this subsection, as if it were included in the terms of a contract between the consultation and negotiation parties.

- (2) If a consultation and negotiation party is a registered native title claimant, any individual included in the native title claim group concerned is a party to the contract.

688 Notice of grant to registered native title parties

- (1) If the Minister grants the proposed mining lease, the holder of the mining lease must, within 20 business days after the holder receives notice of the grant, give a written notice complying with subsection (2) to each registered native title party.

Maximum penalty—100 penalty units.

- (2) The written notice must—
- (a) advise the granting of the mining lease; and
 - (b) state—
 - (i) any contract conditions; and
 - (ii) the conditions of the mining lease.

Division 5 Renewals of mining leases

689 Application of div 5

- (5) This division applies to the renewal of a mining lease if—
- (a) the application for the renewal of the mining lease was lodged on or before 31 March 2003; and
 - (b) the renewal of the mining lease is an act—
 - (i) that affects native title rights and interests; and
 - (ii) in respect of which the right to negotiate provisions would have otherwise had effect; and
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.

- (6) However, this division applies to the renewal of a mining lease mentioned in subsection (5) only to the extent that the area of the mining lease is non-exclusive land.
- (7) This division applies to the renewal of a mining lease mentioned in subsection (5) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea.
- (8) The requirements of this division are additional to the requirements of chapter 6, part 1.
- (9) In this section—
renewal, of a mining lease, includes—
 - (a) the re-grant of the mining lease; and
 - (b) the re-making of the mining lease; and
 - (c) the extension of the term of the mining lease.

694 Requirements for renewal—applying div 4

- (1) If this division applies to the renewal of a mining lease because of section 689(5), the additional requirements applying under division 4 for the granting of a mining lease on non-exclusive land also apply for the renewal.
- (2) The requirements apply with necessary changes.

695 Applying div 4 for renewal

- (1) This section—
 - (a) applies for applying the provisions of division 4; and
 - (b) does not limit section 694.
- (2) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the end of the period of 20 business days after lodgement of the application for the renewal.
- (3) For applying section 669, the pre-referral period is—

- (a) the period of 6 months starting on the notification day (native title issues); or
 - (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time.
- (4) For applying division 4, subdivisions 4 and 5, if the proposed renewal is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.
- (5) Sections 671 and 672 do not apply, but—
- (a) the chief executive must within 10 business days after the pre-referral period ends, fix a day for the tribunal to hear the application for the renewal; and
 - (b) all consultation and negotiation parties have the right to be heard at the hearing; and
 - (c) the tribunal must hear the application for the renewal and make a native title issues decision; and
 - (d) before making its native title issues decision, the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 286A(1).
- (6) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision.
- (7) For applying section 677, the tribunal must also take into account information received from the Minister under subsection (5)(d).
- (8) Division 4, subdivision 7 does not apply.
- (9) Section 680(2) and (3) does not apply.

Division 6 **Requirements for subsidiary approvals**

696 **Meaning of *approval* in div 6**

In this division—

approval means—

- (a) the approval, under section 237, to conduct drilling and other activities on land not included in the surface area covered under a mining lease; or
- (b) the grant, on an application under section 275, of an additional area of surface of land to be included in the area of a mining lease; or
- (c) the approval, under section 298, for the holder of a mining lease to mine specified minerals, or for the addition of another purpose to a mining lease.

697 **Application of div 6**

(5) This division applies to an approval if—

- (a) were the mining lease to which the approval relates to be granted again, the granting of the mining lease would be an act affecting native title rights and interests if the mining lease were to provide only for—
 - (i) the drilling and other activities mentioned in section 696, definition *approval*, paragraph (a); or
 - (ii) the additional area of surface mentioned in section 696, definition *approval*, paragraph (b); or
 - (iii) the mining of the specified minerals, or the added purpose, mentioned in section 696, definition *approval*, paragraph (c); and
- (ab) the application for the approval was lodged on or before 31 March 2003; and

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- (b) the approval is an act in respect of which the right to negotiate provisions would otherwise have effect; and
 - (d) the approval relates to non-exclusive land; and
 - (e) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this subsection is included in the alternative provisions the subject of the determination.
- (6) However, this division applies to the approval mentioned in subsection (5) only to the extent that the approval relates to non-exclusive land.
 - (7) This division applies to an approval mentioned in subsection (5) only to the extent that the approval relates to a place that is on the landward side of the mean high-water mark of the sea.
 - (8) The requirements of this division are additional to the requirements of chapter 6, part 1.

699 Requirements for approval (additional area)—applying div 4

- (1) If this division applies to an approval because of section 697(5), and the approval is the grant of an additional area of surface of land to be included in the area of a mining lease, the additional requirements applying under division 4 for the granting of a mining lease also apply for the approval.
- (2) The requirements apply with necessary changes.

704 Requirements for approval (other changes)—applying div 4

- (1) If this division applies to an approval because of section 697(5), and the approval is other than the grant of an additional area of surface land, the additional requirements applying under division 4 for the granting of a mining lease also apply for the approval.
- (2) The requirements apply with necessary changes.

705 Applying div 4 for approval

- (1) This section—
 - (a) applies for applying the provisions of division 4 (because of section 704); and
 - (b) does not limit section 704.
- (2) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i), that is, the end of the period of 20 business days after lodgement of the application for the approval.
- (3) For applying section 669, the pre-referral period is—
 - (a) the period of 6 months starting on the notification day (native title issues); or
 - (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the chief executive in writing of the agreed later time—the period ending at the agreed later time.
- (4) For applying division 4, subdivisions 4 and 5, if the proposed approval is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.
- (5) Sections 671 and 672 do not apply, but—
 - (a) the chief executive must within 10 business days after the pre-referral period ends, fix a day for the tribunal to hear the application for the approval; and
 - (b) all consultation and negotiation parties have the right to be heard at the hearing; and
 - (c) the tribunal must hear the application for the approval and make a native title issues decision.
- (6) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision.
- (7) Section 680 does not apply, but the native title issues decision must be complied with by the Minister unless the Minister

overrules the native title issues decision under division 4, subdivision 6.

- (8) Section 682 does not apply.
- (9) Division 4, subdivision 7 does not apply.

Part 7 Compensation provisions

Division 1 Preliminary

706 Definitions for pt 7

In this part—

compensation decision, for a relevant act, means a decision of the tribunal, other than a compensation trust decision, that provides for—

- (a) whether compensation is to be paid to a registered native title body corporate in relation to the relevant act; and
- (b) if compensation is to be paid—the amount of money to be paid.

compensation trust decision, for a relevant act, means a decision of the tribunal about the payment of an amount to be held in trust for any entitlement to compensation for the doing of the relevant act.

relevant act means the grant, renewal or variation of, or another act concerning, a mining tenement, if the act happens after the commencement of this section, and is an act—

- (a) to which—
 - (i) part 2 applies; or
 - (ii) part 3 or 6, division 4, 5 or 6 applies; or
 - (iii) part 4 or 5, division 2, 4, 5 or 6 applies; or

- (b) to which part 2 would apply, or part 3 or 6, division 4, 5 or 6 would apply, or part 4 or 5, division 2, 4, 5 or 6 would apply, were it not that—
 - (i) the act relates to a mining tenement in an approved opal or gem mining area, and is excluded from the application of the right to negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act; or
 - (ii) the mining tenement relates to a place that is on the seaward side of the mean high-water mark of the sea; or
 - (iii) the act relates to a mining lease for the sole purpose of the construction of an infrastructure facility associated with mining, and is an act mentioned in section 24MD(6B)(b) of the Commonwealth Native Title Act; or
- (c) that is a renewal to which part 3, 4, 5 or 6, division 5 would apply, were it not that the renewal is an act—
 - (i) to which the right to negotiate provisions do not apply because of section 26D(1) of the Commonwealth Native Title Act; and
 - (ii) in relation to which the earlier right to mine mentioned in section 26D(1)(a) is an earlier right mentioned in section 26D(1)(b)(ii); and
 - (iii) for which compensation has not previously been agreed.

Division 2 General principles

707 Native title compensation

- (1) An entity is entitled to compensation for the effect of a relevant act on the entity's native title rights and interests, including for activities carried out under the mining tenement the subject of the relevant act as a result of the relevant act.

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- (2) However, the entity may receive compensation only in a way provided for in this part.
 - (3) Nothing in subsections (1) and (2) stops—
 - (a) compensation from being agreed to before a relevant act is done, based on the expected effect of the relevant act on an entity's native title rights and interests; or
 - (b) a compensation decision or compensation trust decision being made, in accordance with the requirements of the native title provisions, including this part, before a relevant act is done, having regard to the expected effect of the relevant act on an entity's native title rights and interests.
 - (4) Subject to the provisions of this part under which the tribunal may require the State to pay an amount of compensation in relation to a relevant act, the tribunal may order only the following to pay an amount under a compensation decision or compensation trust decision for a relevant act—
 - (a) the applicant for, or the holder for the time being of, the mining tenement the subject of the relevant act;
 - (b) another entity, if the tribunal considers that it would be just and equitable that the entity should be ordered to pay the amount, having regard to the circumstances of the entity's past or present, direct or indirect, financial or other connection with—
 - (i) the relevant act, including the activities carried out under the mining tenement the subject of the relevant act; or
 - (ii) an entity that is or was the holder of the mining tenement the subject of the relevant act.
 - (5) There is no entitlement to be compensated more than once for the effect on native title rights and interests of an act if compensation has already been provided under this part for what is essentially the same effect of the same act.
 - (5A) Without limiting subsection (1), the tribunal, in arriving at a compensation decision or compensation trust decision, must

apply all relevant principles applicable under this Act for deciding amounts of compensation.

- (6) The tribunal must not, in relation to any part of the area the subject of a relevant act relating to a mining claim or mining lease, make more than 1 compensation trust decision for the relevant act.

708 Agreement for compensation

- (1) The applicant for the doing of a relevant act, or the holder of a mining tenement the subject of a relevant act, may enter into an agreement with an entity about compensation for the effect of the relevant act on—
 - (a) if the entity is a registered native title body corporate that holds native title rights and interests in trust for common law holders—the native title rights and interests that the body corporate holds in trust; or
 - (b) if the entity is a registered native title body corporate that acts as an agent or representative for common law holders—the native title rights and interests of the common law holders; or
 - (c) if the entity is a registered native title claimant—the native title rights and interests of the native title claim group; or
 - (d) otherwise—the entity’s native title rights and interests.
- (2) An agreement about compensation is not effective as an agreement under this part unless the agreement—
 - (a) is in writing, and signed by or on behalf of the parties to it; and
 - (b) has been filed.
- (3) If a registered native title body corporate is a party to an agreement about compensation, each common law holder for whom the body corporate holds native title rights and interests in trust or acts as an agent or representative is a party to the agreement.

- (4) If a registered native title claimant is a party to an agreement about compensation, each individual included in the native title claim group concerned is a party to the agreement.

709 Application for compensation

- (1) An entity may apply to the tribunal for a compensation decision or a compensation trust decision for a relevant act if the entity is not a party to an agreement about compensation for the relevant act, but is—
- (a) for a compensation decision—
 - (i) a registered native title body corporate claiming compensation for the effect of the relevant act on the native title rights and interests that the body corporate holds in trust for common law holders; or
 - (ii) a registered native title body corporate claiming compensation for the effect of the relevant act on the native title rights and interests of the common law holders for whom the body corporate acts as an agent or representative; or
 - (b) for a compensation trust decision—a registered native title claimant claiming compensation for the effect of the relevant act on the native title rights and interests of the native title claim group.
- (2) Also, an entity may apply to the tribunal for a compensation decision or a compensation trust decision for a relevant act if the entity is the applicant for the doing of the relevant act, or the holder of the mining tenement the subject of the relevant act.
- (3) An entity can not apply to the tribunal for a compensation decision or compensation trust decision for a relevant act if it is not an entity that may apply under subsection (1) or (2).

710 Compensation provided in non-monetary form

- (1) This section applies if the tribunal makes a compensation decision for a relevant act and the decision is that compensation is payable.
- (2) If the registered native title body corporate asks the tribunal to make a recommendation that the whole or part of the amount of the compensation should instead take the form of non-monetary compensation, the tribunal—
 - (a) must consider the request; and
 - (b) may recommend that the person required under the compensation decision to pay the compensation should, within the period specified in the tribunal's recommendation, provide non-monetary compensation in accordance with the recommendation.
- (3) If the tribunal makes the recommendation, the person required to pay the compensation under the compensation decision may provide non-monetary compensation in accordance with the recommendation.
- (4) If the person does provide non-monetary compensation in accordance with the recommendation, the non-monetary compensation is full compensation for the relevant act to the extent of the compensation that was the subject of the recommendation.
- (5) If the non-monetary compensation is not provided in the way recommended by the tribunal, the registered native title body corporate entitled to receive compensation under the compensation decision may ask the tribunal to vary the compensation decision.
- (6) The variation of the compensation decision may take into account the extent to which non-monetary compensation has been provided under the recommendation.
- (7) In this section—

non-monetary compensation includes the following—

 - (a) the transfer of land or other property;

- (b) the provision of goods or services;
- (c) the creation of employment opportunities.

711 Conditions of agreement or compensation decision

If there is an agreement about compensation under this part, or a compensation decision, for a relevant act relating to a mining claim or mining lease, it is a condition of the mining claim or mining lease that the holder of the claim or lease must comply with the terms of the agreement or decision that apply to the holder.

712 Compensation trust decisions

- (1) If the tribunal makes a compensation trust decision for a relevant act, any amount required to be paid into trust under the decision—
 - (a) must be paid to the tribunal; and
 - (b) must be held in the way prescribed under a regulation until it is paid to an entity in a way provided for in this part.
- (2) The applicant for, or holder of, a mining tenement the subject of a relevant act can not be required to pay an amount under a compensation decision for the relevant act to the extent that the area the subject of the relevant act is the subject of a compensation trust decision for the relevant act.

713 State's right to be heard

The State has the right to be heard at any proceeding before the tribunal under this part.

Division 3 Payment of compensation in particular circumstances

714 Compensation before relevant act relating to mining claim or mining lease if registered native title body corporate

- (1) This section applies to a relevant act relating to a mining claim or mining lease if there is a registered native title body corporate in relation to any part (the *identified part*) of the area the subject of the relevant act.
- (2) The relevant act may be done only if—
 - (a) for the identified part, compensation has been decided by—
 - (i) agreement between the applicant for the doing of the relevant act and the registered native title body corporate; or
 - (ii) a compensation decision; and
 - (b) the conditions of the agreement or decision, required under the agreement or decision to be complied with by the applicant before the relevant act is done, have been complied with by the applicant.
- (3) If the relevant act can not be done because of the operation of subsection (2)(a), the chief executive must ask the tribunal to make a compensation decision for the relevant act if—
 - (a) either of the following applies—
 - (i) an agreement for the doing of the act has been made, but the agreement did not include agreement about compensation, and 3 months have passed since the agreement was entered into;
 - (ii) the tribunal has decided in favour of the doing of the relevant act, and 3 months have passed since the making of the tribunal's decision; and
 - (b) neither the applicant for the doing of the relevant act nor the registered native title body corporate has applied to

the tribunal for a compensation decision for the relevant act.

- (4) If the chief executive asks the tribunal under subsection (3) to make a compensation decision, the tribunal must—
 - (a) fix a day for a hearing for the compensation decision; and
 - (b) notify the applicant for the doing of the relevant act and the registered native title body corporate—
 - (i) of the chief executive's action under subsection (3); and
 - (ii) of the day fixed for the hearing; and
 - (iii) that the applicant and the registered native title body corporate have a right to be heard at the hearing; and
 - (c) on or after the hearing day, make a compensation decision.

715 Compensation before relevant act relating to mining claim or mining lease if registered native title claimant

- (1) This section applies to a relevant act relating to a mining claim or mining lease if there is a registered native title claimant in relation to any part (the *identified part*) of the area the subject of the relevant act.
- (2) The relevant act may be done only if—
 - (a) for the identified part, either of the following applies—
 - (i) an agreement about compensation has been reached between the applicant for the doing of the relevant act and the registered native title claimant;
 - (ii) the tribunal has made a compensation trust decision for the relevant act; and
 - (b) either of the following applies—
 - (i) if paragraph (a)(i) applies—the conditions of the agreement, required under the agreement to be complied with by the applicant before the relevant

- act is done, have been complied with by the applicant;
- (ii) if paragraph (a)(ii) applies—the amount ordered by the tribunal under the compensation trust decision to be paid to the tribunal to be held in trust has been paid to the tribunal.
- (3) If the relevant act can not be done because of the operation of subsection (2)(a), the chief executive must ask the tribunal to make a compensation trust decision for the relevant act if—
- (a) either of the following applies—
 - (i) an agreement for the doing of the act has been made, but the agreement did not include agreement about compensation, and 3 months have passed since the agreement was entered into;
 - (ii) the tribunal has decided in favour of the doing of the relevant act, and 3 months have passed since the making of the tribunal’s decision; and
 - (b) neither the applicant for the doing of the relevant act nor the registered native title claimant has applied to the tribunal for a compensation trust decision for the relevant act.
- (4) If the chief executive asks the tribunal under subsection (3) to make a compensation trust decision, the tribunal must—
- (a) fix a day for a hearing for the compensation trust decision; and
 - (b) notify the applicant for the doing of the relevant act and the registered native title claimant—
 - (i) of the chief executive’s action under subsection (3); and
 - (ii) of the day fixed for the hearing; and
 - (iii) that the applicant and the registered native title claimant have a right to be heard at the hearing; and
 - (c) on or after the hearing day, make a compensation trust decision.

716 Compensation after relevant act relating to mining claim or mining lease

- (1) This section applies if—
 - (a) when a relevant act relating to a mining claim or mining lease is done, there is no registered native title body corporate or registered native title claimant in relation to land the subject of the relevant act; and
 - (b) after the doing of the relevant act an entity becomes a registered native title body corporate or registered native title claimant in relation to the area.
- (2) If the entity becomes a registered native title body corporate, the entity may, at any time after the relevant act is done—
 - (a) recover compensation under an agreement about compensation between the holder of the mining claim or mining lease and the registered native title body corporate; or
 - (b) apply to the tribunal for a compensation decision for the relevant act.
- (3) If the entity becomes a registered native title claimant, the entity may at any time after the relevant act is done—
 - (a) recover compensation for the relevant act under an agreement about compensation between the holder of the mining claim or mining lease and the registered native title claimant; or
 - (b) apply to the tribunal for a compensation trust decision for the relevant act.

717 Compensation after relevant act relating to other mining tenement if registered native title body corporate

- (1) This section applies to a relevant act relating to a prospecting permit, exploration permit or mineral development licence if there is a registered native title body corporate in relation to land the subject of the relevant act.
- (2) Without limiting section 707, the registered native title body corporate may, at any time after the relevant act is done—

- (a) recover compensation under an agreement about compensation between the holder of the prospecting permit, exploration permit or mineral development licence and the registered native title body corporate; or
- (b) apply to the tribunal for a compensation decision for the relevant act.

718 Compensation after relevant act relating to other mining tenement if registered native title claimant

- (1) This section applies to a relevant act relating to a prospecting permit, exploration permit or mineral development licence if there is a registered native title claimant in relation to land the subject of the relevant act.
- (2) Without limiting section 707, a registered native title claimant may at any time after the relevant act is done—
 - (a) recover compensation for the relevant act under an agreement about compensation between the holder of the prospecting permit, exploration permit or mineral development licence and the registered native title claimant; or
 - (b) apply to the tribunal for a compensation trust decision for the relevant act.

719 State liable to pay compensation in particular circumstances

- (1) This section applies if, in relation to any part of the area the subject of a relevant act—
 - (a) there is an agreement under this part about compensation for the doing of the relevant act; and
 - (b) an entity obtains an approved determination of native title that native title exists; and
 - (c) the entity was not a party to the agreement about compensation; and
 - (d) the agreement does not provide for compensation for the entity or successor of the entity, including for example, a

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- registered native title body corporate holding the native title rights and interests claimed by the entity; and
- (e) the registered native title body corporate for the native title the subject of the approved determination applies to the tribunal for a compensation decision for the relevant act; and
 - (f) the tribunal makes a compensation decision for the relevant act.
- (2) This section also applies if, in relation to any part of the area the subject of a relevant act—
- (a) a registered native title body corporate applies to the tribunal for a compensation decision for the relevant act; and
 - (b) no amount is held in trust under a compensation trust decision for the relevant act; and
 - (c) the tribunal makes a compensation decision for the relevant act; and
 - (d) the tribunal is satisfied that—
 - (i) there is no longer in existence an entity of a type mentioned in section 707(4)(a) or (b) that can be ordered to pay compensation; or
 - (ii) there is in existence an entity of a type mentioned in section 707(4)(a) or (b) that can be ordered to pay compensation, and the entity is unable to pay the whole or a part of the amount of compensation decided by the tribunal under the compensation decision.
- (3) If this section applies because of subsection (1) or (2)(a), (b), (c) and (d)(i), the State must pay the amount of compensation decided by the tribunal under the compensation decision.
- (4) If this section applies because of subsection (2)(a), (b), (c) and (d)(ii), the State must pay the amount of compensation decided by the tribunal under the compensation decision, except to the extent that the tribunal orders the entity mentioned in subsection (2)(d)(ii) to pay part of the amount.

Division 4 Amounts held in trust

720 Repayment of amount held in trust for compensation

- (1) This section applies if—
 - (a) an amount is held in trust under a compensation trust decision for a relevant act; and
 - (b) either of the following happens—
 - (i) the application for the doing of the relevant act is not granted and is no longer a current application;
 - (ii) the relevant act is done, but an approved determination of native title is made and it is apparent, from the terms of the determination, that immediately before the relevant act was done, native title did not exist in relation to land the subject of the relevant act.
- (2) A person who claims to have an interest in the amount paid into trust, or the State, may apply to the tribunal for an order about the payment of the amount.
- (3) The tribunal may—
 - (a) order the payment of some or all of the amount to the person who paid the amount; or
 - (b) if the person no longer exists, make an appropriate order about the payment of some or all of the amount.
- (4) If subsection (1)(b)(ii) applies, the tribunal, in making its order under subsection (3), must have regard to the extent to which the approved determination relates to the area the subject of the relevant act.

721 Dealing with amount held in trust for compensation—determination of native title

- (1) This section applies if—
 - (a) an amount is held in trust under a compensation trust decision for a relevant act; and

- (b) the relevant act is done; and
 - (c) an approved determination of native title is made that native title exists in relation to land the subject of the relevant act.
- (2) The registered native title body corporate for the native title the subject of the approved determination may apply to the tribunal for a compensation decision for the relevant act.
 - (3) As well as making the compensation decision, the tribunal must also, having regard to the extent to which the approved determination relates to the area the subject of the relevant act, order how much (the *trust amount*) of the amount held in trust under the compensation trust decision must be paid to the registered native title body corporate.
 - (4) If the amount payable under the compensation decision is more than the trust amount, the difference must be paid by the State to the registered native title body corporate.

722 Dealing with amount held in trust for compensation—no applicable provision

- (1) This section applies if—
 - (a) an amount is held in trust under a compensation trust decision for a relevant act; and
 - (b) no other provision of this part provides for the disposal of the amount; and
 - (c) the tribunal decides, on an application by a person, that it would be just and equitable in all the circumstances to pay some or all of the amount held in trust to a person.
- (2) The tribunal must order the payment of some or all of the amount held in trust in the way the tribunal considers appropriate.

Schedule 2 Dictionary

section 5

abandoned mine, for chapter 13, part 4, see section 344.

access agreement—

- (a) for schedule 1A, part 2—see schedule 1A, section 429; or
- (b) for schedule 1A, part 4, division 2—see schedule 1A, section 485; or
- (c) for schedule 1A, part 5, division 2—see schedule 1A, section 541.

acquired land—

- 1 Land is *acquired land* if—
 - (a) it was taken under a resumption law, other than by taking or otherwise creating an easement; and
 - (b) under section 10AAA, all mining tenement interests relating to the land were extinguished on the taking.
- 2 However, land mentioned in paragraph 1 stops being *acquired land* if it is included in the area of a new or renewed mining tenement granted under this Act.

adjacent lease see section 318CP(a).

adjoining lots includes lots that would be adjoining lots if they were not separated by a road.

ADR, for schedule 1, see schedule 1, section 20(2)(b).

advanced activity, for schedule 1, see schedule 1, section 3.

affected land, for chapter 12, part 2, see section 334Q.

aggrieved person see—

- section 38
- section 116.

ALA means the *Acquisition of Land Act 1967*.

applicant—

- (a) for chapter 9—see section 318ELAP(a); or
- (b) for the native title provisions generally—see schedule 1A, section 422; or
- (c) for schedule 1A, part 2—see schedule 1A, section 429; or
- (d) for schedule 1A, part 4, division 2—see schedule 1A, section 485; or
- (e) for schedule 1A, part 5, division 2—see schedule 1A, section 541; or
- (f) for schedule 1A, part 6, division 4—see schedule 1A, section 651.

application, for an exploration permit, includes an EP tender.

application notice—

- (a) for schedule 1A, part 2—see schedule 1A, section 431(1); or
- (b) for schedule 1A, part 4, division 2—see schedule 1A, section 486(1); or
- (c) for schedule 1A, part 5, division 2—see schedule 1A, section 542(1).

application transfer see section 318AAN(2).

apply, in relation to making an application, has the meaning affected by section 386O.

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.

approval, for schedule 1A, part 6, see schedule 1A, section 696.

approved form see section 416A.

approved opal or gem mining area, for the native title provisions, see schedule 1A, section 422.

area—

- 1 The *area*, of a mining tenement, is the land to which the tenement is subject.

Note—

See, however, section 10AAB in relation to the exclusion of land from a mining tenement's area following the taking of the land under a resumption law.

- 2 The *area*, of a petroleum tenure, is the land to which the tenure is subject as recorded in the petroleum register under the *Petroleum Act 1923* or the Petroleum and Gas (Production and Safety) Act.
- 3 The *area*, of a GHG authority, is the land to which the authority is subject, as recorded in the GHG register under the GHG storage Act.
- 4 The *area*, of a geothermal tenure, is the land to which the tenure is subject, as recorded in the geothermal register under the Geothermal Act.
- 5 The *area*, of an application for the grant of a mining tenement, a petroleum tenure, a GHG authority or a geothermal tenure, is the land the subject of the application.

assessable transfer, for chapter 7, part 1, see section 318AAR(2).

assessment criteria, for chapter 9, see section 318ELAQ(1)(b).

associated agreement see section 318AAZB.

At Risk agreement means the document called the 'At Risk' agreement endorsed by Cabinet on 5 April 1988, and that document as amended and endorsed by Cabinet from time to time.

Editor's note—

A copy of the agreement is available from the department's offices at 61 Mary Street, Brisbane.

Aurukun agreement means an agreement between the State and a person selected by the State to develop an Aurukun project.

Aurukun project—

- 1 *Aurukun project* means a project for the extraction, transportation and processing of bauxite on—
 - (a) land that is more or less the land described as ‘restricted area 315’ (RA315) under this Act; or
 - (b) a part of the land mentioned in paragraph (a).
- 2 *Aurukun project* includes the construction and operation of works, including, for example, mining equipment, electricity generation plants and related distribution infrastructure, pipelines, telecommunications infrastructure, water storage and distribution infrastructure, buildings, conveyors, roads or railways on land near Aurukun and Weipa.

authorised activity—

- 1 An *authorised activity*, for a mining tenement, is an activity that its holder is, under this Act or the tenement, entitled to carry out in relation to the tenement.

Note—

The carrying out of particular activities on particular land in a mining tenement’s area may not be authorised following the taking of the land under a resumption law. See section 10AAB.

- 2 An *authorised activity*, for a petroleum tenure, is an activity that its holder is, under the *Petroleum Act 1923*, the Petroleum and Gas (Production and Safety) Act or the tenure, entitled to carry out in relation to the tenure.
- 3 An *authorised activity*, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out in relation to the authority.
- 4 An *authorised activity*, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or the tenure, entitled to carry out in relation to the tenure.

authorised officer means a person appointed as an authorised officer under section 336.

authorised person, for chapter 13, part 4, see section 344.

authority to prospect see section 318AI(2).

block means a block as described in section 126.

building means a fixed, roofed structure that is completely or partly enclosed by walls.

cadastral surveyor means a person registered as a cadastral surveyor under the *Surveyors Act 2003*.

call for EP (coal) tenders see section 136C(1).

call for EP (non-coal) tenders see section 136A(2).

certificate of public notice, for an application for a mining lease, means—

- (a) the certificate of public notice for the application given under section 252A; or
- (b) if the certificate of public notice has been reissued under section 253—the reissued certificate.

Cherwell Creek, for chapter 12, part 4, see section 334ZB.

closing day (native title issues), for schedule 1A, part 6, see schedule 1A, section 653(3).

closing time, for a call for EP (coal) tenders or a call for EP (non-coal) tenders, see section 136C(2)(b).

coal exploration tenement see section 318AE(1).

coal mining lease see section 318AE(2).

coal or oil shale mining lease means a coal mining lease or oil shale mining lease.

coal or oil shale mining tenement see section 318AG.

coal seam gas see section 318AC(1).

Collingwood Park State guarantee or **guarantee**, for chapter 12, part 2, see section 334R.

combined hearing, for schedule 1A, part 6, division 4, see schedule 1A, section 671.

commencement day, for chapter 12, part 4, see section 334ZB.

Commonwealth Native Title Act means the *Native Title Act 1993* (Cwlth).

company means the following entities within the meaning of the Corporations Act—

- (a) a company;
- (b) a registered foreign company.

compensation agreement, for chapter 10, see section 318ET(1).

compensation application, for chapter 10, means an application made under section 318EU(1).

compensation decision, for schedule 1A, part 7, see schedule 1A, section 706.

compensation liability—

- (a) for an authorised activity for an exploration permit or mineral development licence—see schedule 1, section 13(1) and (2); or
- (b) for a notifiable road use—see section 318ES(1) and (2).

compensation trust decision, for schedule 1A, part 7, see schedule 1A, section 706.

compliance direction see section 335A(2).

condition includes term.

conduct and compensation agreement, for schedule 1, see schedule 1, section 14(1).

conduct and compensation agreement requirement, for schedule 1, see schedule 1, section 10(2).

confidential information, for chapter 11, part 4, see section 334A.

consultation and negotiation parties, for schedule 1A, part 6, division 4, see schedule 1A, section 658(1).

consultation period—

- (a) for schedule 1A, part 2—see schedule 1A, section 435(1); or
- (b) for schedule 1A, part 4, division 2—see schedule 1A, section 490(1); or
- (c) for schedule 1A, part 5, division 2—see schedule 1A, section 546(1).

consultation period advice day—

- (a) for schedule 1A, part 2—see schedule 1A, section 435(2); or
- (b) for schedule 1A, part 4, division 2—see schedule 1A, section 490(2); or
- (c) for schedule 1A, part 5, division 2—see schedule 1A, section 546(2).

contract conditions, for schedule 1A, part 6, division 4, see schedule 1A, section 675(1)(b)(ii).

coordination arrangement see section 318AJ.

credit provider see the National Credit Code.

CSG assessment criteria see section 318AP(1)(c).

CSG statement see section 318AP(1)(a).

dealing, with a mining tenement, see section 318AAP.

decision, for the native title provisions, see schedule 1A, section 422.

deferral agreement, for schedule 1, see schedule 1, section 11(c)(i).

designated CSG product means coal seam gas mined from pre-drainage, ventilation or from drainage of a goaf.

development see the Planning Act, section 7.

development plan, for a coal mining lease or an oil shale mining lease, see section 318AH.

district prospecting permit see section 14.

educational institution means a school, college, university or university college.

EIS means an environmental impact statement.

election notice, for schedule 1, see schedule 1, section 20(2).

eligible claimant, for schedule 1, see schedule 1, section 13(1).

eligible person means—

- (a) other than for chapter 5, part 2 and chapter 6, part 2—
 - (i) an adult; or
 - (ii) a company; or
 - (iii) a local government that acquires a mining claim or mining lease under the *Local Government Act 2009* for overdue rates and charges; or
 - (iv) an educational institution the Minister treats as an eligible person under section 7; and
- (b) for chapter 5, part 2—a person who is a party to an Aurukun agreement with the State; and
- (c) for chapter 6, part 2—a person who holds a mineral development licence under chapter 5, part 2.

enter land includes remain on the land.

entry notice, for schedule 1, see schedule 1, section 5(1).

environment has the meaning given by the Environmental Protection Act.

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

Environmental Protection Act means the *Environmental Protection Act 1994*.

EPA administering authority, for a mining tenement or an application, means the administering authority under the Environmental Protection Act for an environmental authority for mining activities or an application for an environmental

authority for mining activities relating to the mining tenement or the application.

EP tender means a tender for an exploration permit in response to a call for EP (coal) tenders or a call for EP (non-coal) tenders.

expiry day, for a mining tenement, means the day the tenement expires under its terms.

exploration permit means an exploration permit under chapter 4.

exploration tenement, for schedule 1, see schedule 1, section 1.

explore means take action to determine the existence, quality and quantity of minerals on, in or under land or in the waters or sea above land by—

- (a) prospecting;
- (b) using instruments, equipment and techniques appropriate to determine the existence of any mineral;
- (c) extracting and removing from land for sampling and testing an amount of material, mineral or other substance in each case reasonably necessary to determine its mineral bearing capacity or its properties as an indication of mineralisation;
- (d) doing anything else prescribed under a regulation.

fee includes tax.

file, a document, has the meaning affected by section 386O.

financial resources, for a provision about an application for an exploration permit, mineral development licence or mining lease, includes the financial resources necessary to comply with the following for the area to which the application relates—

- (a) any relevant provisions of the Commonwealth Native Title Act;
- (b) any registered indigenous land use agreement under that Act.

forward, a document, has the meaning affected by section 386O.

fossicking area has the meaning given by the *Fossicking Act 1994*.

Geothermal Act see section 3B.

geothermal coordination arrangement see the Geothermal Act, section 138(4).

geothermal lease see the Geothermal Act, section 19(1)(b).

geothermal permit see the Geothermal Act, section 19(1)(a).

geothermal tenure see the Geothermal Act, section 19(2).

GHG means greenhouse gas.

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

GHG coordination arrangement see the GHG storage Act, section 186(3).

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

GHG permit see the GHG storage Act, section 18(1)(a).

GHG storage Act see section 3B.

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

give, a document to the Minister or chief executive, has the meaning affected by section 386O.

hand mining means mining using hand-operated tools, including, for example, picks, shovels, hammers, gads, sieves and windlasses, but does not include mining using explosives.

hearing includes a presentation of an interim nature, including, for example, a directions hearing.

Heritage Act means the *Queensland Heritage Act 1992*.

high impact exploration permit, for schedule 1A, part 4, see schedule 1A, section 483.

high impact mineral development licence, for schedule 1A, part 5, see schedule 1A, section 539.

holder, for a prospecting permit, exploration permit, mining claim, mineral development licence or mining lease, means the person in whose name the permit, claim, licence or lease is recorded, and, for chapter 2, part 1, includes a person mentioned in section 13, definition *holder*.

holder submissions see section 318ELAT(1).

IDAS, see the Planning Act, section 230.

improvement restoration, for a mining tenement, see section 6C.

incidental coal seam gas see section 318AC(2).

indicative approval, of an assessable transfer, see section 318AAV(1)(a).

information-giver, for chapter 8, part 10, see section 318EJ(1).

information statement, for chapter 9, see section 318ELAQ(1)(a).

initial development plan requirements see section 318DS.

lake, for chapter 12, part 3, see section 334V.

land includes—

- (a) land within the beds and banks of all streams, watercourses and inundated land; and
- (b) land beneath the internal waters of Queensland; and
- (c) the sea bed and subsoil to which this Act applies; and
- (d) waters in, upon and above land; and
- (e) subterranean land;

but, except in sections 8, 9 and 11, does not include a protected area.

land access code see the Petroleum and Gas (Production and Safety) Act, section 24A.

last objection day for—

- (a) an application for a mining claim—see section 64(3)(c);
or

(b) an application for a mining lease—see section 252A(2)(a).

later development plan requirements see section 318EB(2)(b).

limited hand sampling techniques, for chapter 12, part 3, see section 334V.

lodge, a document, has the meaning affected by section 386O.

low impact activity—

- (a) for chapter 12, part 3—see section 334V; or
- (b) for schedule 1A, part 4—see schedule 1A, section 482; or
- (c) for schedule 1A, part 5—see schedule 1A, section 538.

low impact exploration permit, for schedule 1A, part 4, see schedule 1A, section 481.

low impact mineral development licence, for schedule 1A, part 5, see schedule 1A, section 537.

low impact prospecting permit, for schedule 1A, part 2, see schedule 1A, section 430.

make a submission has the meaning affected by section 386O.

mandatory provision, of the land access code or the small scale mining code, means a provision of the code with which the code requires compliance.

mine see section 6A.

mineral—

- (a) generally, see section 6; and
- (b) for section 121 or 122, see section 121(4); and
- (c) for section 312 or 313, see section 312(4).

mineral development licence, means—

- (a) for chapter 5, part 2—a mineral development licence under chapter 5, part 2; and

- (b) other than for chapter 5, part 2—a mineral development licence under chapter 5, part 1 or 2.

mineral (f), see section 6(2)(f) and (3)(c).

minimum negotiation period, for schedule 1, see schedule 1, section 17(2)(a).

mining claim means a mining claim under chapter 3.

mining claim application certificate see section 64(2).

mining interest means—

- (a) a mining tenement; or
- (b) a tenure held from the State under another Act about mining under which tenure the holder is authorised to carry out mining or a related mineral or energy resources activity.

mining lease means—

- (a) for chapter 6, part 2—a mining lease under chapter 6, part 2; or
- (b) other than for chapter 6, part 2—a mining lease under chapter 6, part 1 or 2.

mining lease holder for chapter 8, part 8, divisions 1 and 2, see section 318CL.

mining tenement means a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease.

mining tenement interest means—

- (a) a mining tenement; or
- (b) a right existing under, or in relation to, a mining tenement.

Minister's decision, for schedule 1A, part 6, division 4, see schedule 1A, section 684(2).

moratorium period, for chapter 12, part 1, see section 334E(1).

mortgage includes a charge on any mining claim, mineral development licence or mining lease for securing money or money's worth.

National Credit Code means the *National Credit Code* in Schedule 1 of the *National Consumer Credit Protection Act 2009* (Cwlth).

native title issues decision, for schedule 1A, part 6, division 4, see schedule 1A, section 669(1).

native title notification party, for the native title provisions, see schedule 1A, section 422.

native title provisions means the following provisions—

- schedule 1A, parts 1 to 7
- chapter 15, part 2, divisions 2 and 5.

natural underground reservoir means a part of a geological formation or structure (including a coal seam) in which coal seam gas or petroleum has accumulated.

negotiated agreement, for schedule 1A, part 6, division 4, see schedule 1A, section 659(1).

negotiation notice, for schedule 1, see schedule 1, section 16(1).

nominated waterway, for chapter 12, part 3, see section 334V.

non-assessable transfer, for chapter 7, part 1, see section 318AAR(1).

non-exclusive land, for the native title provisions, see schedule 1A, section 422.

notice of intention to resume, for the proposed taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or
- (b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

notifiable road use, for chapter 10, see section 318EO.

notification day (native title issues), for schedule 1A, part 6, division 4, see schedule 1A, section 653(2).

occupied land means land (other than land occupied under a permit under the *Land Act 1994*) of which there is an owner, and includes a reserve.

occupier, of a place, means a person—

- (a) who, under an Act or a lease registered under the *Land Title Act 1994*, has a right to occupy the place, other than under a mining interest, petroleum tenure, licence under the Petroleum and Gas (Production and Safety) Act, GHG authority or geothermal tenure; or
- (b) to whom an owner of the place or another occupier under paragraph (a) has given the right to occupy the place.

officer, of a company, has the same meaning as officer of a corporation under the Corporations Act.

oil shale see section 318AD.

oil shale activity see section 334I(1).

oil shale exploration tenement see section 318AF(1).

oil shale mining lease see section 318AF(2).

oil shale mining tenement see section 334F.

other mining legislation means the following—

- (a) *Coal Mining Safety and Health Act 1999*;
- (b) *Explosives Act 1999*;
- (c) *Fossicking Act 1994*;
- (d) *Mining and Quarrying Safety and Health Act 1999*;
- (e) *Petroleum Act 1923*;
- (f) *Petroleum and Gas (Production and Safety) Act 2004*.

overlapping authority application period, for chapter 9, see section 318ELAZ(2).

overlapping authority (geothermal or GHG) see section 318ELAN.

overlapping authority priority see section 318ELAT(3)(b)(i).

overlapping lease, for chapter 9, see section 318ELAZ(2).

overlapping permit, for chapter 9, see section 318ELAU(1)(a).

overlapping tenure, for chapter 9, part 2, see section 318ELAP(c).

owner, of land, means—

- (a) for a reserve (other than land that is a reserve merely because it is in the wet tropics area and land that is rail corridor land)—
 - (i) if the reserve is a road—the entity having control of the road; or
 - (ii) if the reserve is a resources reserve under the *Nature Conservation Act 1992* for which there are trustees—the trustees for the reserve; or
 - (iii) if the reserve is DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—the trustees for the land; or
 - (iv) if the reserve is land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 6—the relevant local government; or
 - (v) if Aboriginal land under the *Aboriginal Land Act 1991* is taken to be a reserve because of section 202(2) or (4)(b) of that Act—the grantees of the land; or
 - (vi) if Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* is taken to be a reserve because of section 151(2) of that Act—the grantees of the land; or
 - (vii) if subparagraphs (i) to (vi) do not apply—the Minister responsible for administering the Act under which it is a reserve; or

- (b) for freehold land—the registered owner of the land; or
- (c) if a person is, or will on performing conditions, be entitled to a deed of grant in fee simple for the land—the person; or
- (d) if an estate in fee simple of the land is being purchased from the State—the purchaser; or
- (e) for a State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department responsible for the administration of the *Forestry Act 1959*; or
- (f) for a person who holds land under a lease from the State under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* for land excised from land granted in trust for Aboriginal or Torres Strait Islander purposes under the *Land Act 1994*—the trustees of the land; or
- (g) for a person who holds land from the State under an Act (other than an Act about mining or petroleum) under another kind of lease or occupancy (other than occupation rights under a permit under the *Land Act 1994*) of the land—the person;

and includes, in addition to an owner mentioned in paragraphs (a) to (g)—

- (h) for a forest entitlement area under the *Forestry Act 1959*—the chief executive of the department responsible for the administration of the *Forestry Act 1959*; and
- (ha) for a licence area under the *Forestry Act 1959*—the plantation licensee for the licence area under that Act; and
- (i) for land in the wet tropics area—the Wet Tropics Management Authority; and
- (j) for rail corridor land—the Minister administering chapter 7 of the *Transport Infrastructure Act 1994*.

parcel prospecting permit see section 14.

parties—

- (a) for chapter 13, part 2, see section 335G; or

(b) for schedule 1, see schedule 1, section 17(1).

permanent building means a building other than a building of a temporary nature.

person, for chapter 12, part 3, see section 334V.

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

petroleum development preference see section 318AX(3)(b).

petroleum lease see section 318AI(1).

petroleum lease application period see section 318BG(2).

petroleum tenure see section 318AI(3).

Planning Act means the *Sustainable Planning Act 2009*.

planning scheme see the Planning Act, section 79.

plan period, for a development plan, see section 318AH(3).

pre-existing improvements, for a mining tenement, means all improvements on, or attached to, the land the subject of the tenement immediately before the application for the tenement was lodged.

Examples of an improvement—

- 1 a bridge, building, fence, stock yard or other structure
- 2 equipment, machinery or plant

preference decision see section 318BB(2).

preliminary activity, for schedule 1, see schedule 1, section 2.

prescribed criteria, for the grant of an exploration permit, see section 137.

prescribed persons, for chapter 12, part 4, see section 334ZB.

private land, for schedule 1, see schedule 1, section 4.

property—

(a) for section 121, 122 or 123, see section 121(4); and

(b) for section 312, 313 or 314, see section 312(4).

proposed wild river area, for chapter 12, part 3, see section 334V.

prospect see section 6B.

prospecting permit means a prospecting permit granted under chapter 2.

protected area means an area dedicated under the *Nature Conservation Act 1992* as—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (Aboriginal land); or
- (d) a national park (Torres Strait Islander land); or
- (e) a national park (recovery); or
- (f) a conservation park.

public land, for schedule 1, see schedule 1, section 4.

public land authority, for schedule 1, see schedule 1, section 4.

public official, for chapter 11, part 4, see section 334A.

rail corridor land means existing rail corridor land or new rail corridor land under the *Transport Infrastructure Act 1994*.

rail government entity see the *Transport Infrastructure Act 1994*, schedule 6.

recipient, for chapter 8, part 10, see section 318EJ(1).

refuse includes reject.

register means the register kept under section 387.

registered indigenous land use agreement under the Commonwealth Native Title Act means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements under the Commonwealth Native Title Act.

registered native title party—

- (a) for schedule 1A, part 2—see schedule 1A, section 429; or
- (b) for schedule 1A, part 4, division 2—see schedule 1A, section 485; or

- (c) for schedule 1A, part 5, division 2—see schedule 1A, section 541; or
- (d) for schedule 1A, part 6, division 4—see schedule 1A, section 655.

registered native title rights and interests, for the native title provisions, see schedule 1A, section 422.

registrar, for chapter 12, part 2, see section 334Q.

registration, for a dealing or an application transfer, means recorded in the register.

rehabilitation activities, for chapter 13, part 4, see section 344.

relevant act, for schedule 1A, part 7, see schedule 1A, section 706.

relevant Aurukun agreement means—

- (a) for a mineral development licence—the Aurukun agreement for the Aurukun project for which the licence was granted; or
- (b) for a mining lease—the Aurukun agreement for the Aurukun project for which the lease was granted.

relevant environmental condition, for a mining tenement, means a condition of an environmental authority for mining activities under the Environmental Protection Act relating to the tenement.

relevant land, for a mining lease application, means the land applied for in the application.

relevant local government, for land, means the local government for the local government area in which the land is situated.

relevant mining district, for land, means the mining district in which the land is situated.

relevant special interest publication, for the native title provisions, see schedule 1A, section 422.

relinquishment condition, for a coal mining lease or an oil shale mining lease, see section 318BM(2).

rental year means each 12-month period that starts on 1 September and ends on 31 August.

repealed Acts means the Acts repealed by this Act.

reserve means—

- (a) land that is—
 - (i) a road; or
 - (ii) a State forest or timber reserve under the *Forestry Act 1959*; or
 - (iii) a resources reserve under the *Nature Conservation Act 1992*; or
 - (iv) Aboriginal land under the *Aboriginal Land Act 1991* taken to be a reserve because of section 202(2) or (4)(b) of that Act; or
 - (v) Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* taken to be a reserve because of section 151(2) of that Act; or
 - (vi) rail corridor land; or
 - (vii) vested in—
 - (A) the Minister administering the *Education (General Provisions) Act 2006*; or
 - (B) QR Limited ACN 124 649 967; or
 - (BA) a rail government entity; or
 - (C) the Queensland Housing Commission; or
 - (D) the Minister responsible for the construction of public buildings or the chief executive of that Minister's department; or
 - (viii) held under the *Transport Planning and Coordination Act 1994*; or
 - (ix) granted in trust or reserved for a community purpose under the *Land Act 1994* or another Act; or

(b) land held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3; or

(c) land within the wet tropics area;

but does not include land (other than a road) reserved as a town or suburb under the *Land Act 1994*.

resource management decision, for chapter 9, part 2, see section 318ELAV.

restricted land means restricted land (category A) or (category B).

restricted land (category A) means land within 100m laterally of a permanent building used—

- (a) mainly as accommodation or for business purposes; or
- (b) for community, sporting or recreational purposes or as a place of worship.

restricted land (category B) means land within 50m laterally of any of the following features—

- (a) a principal stockyard;
- (b) a bore or artesian well;
- (c) a dam;
- (d) another artificial water storage connected to a water supply;
- (e) a cemetery or burial place.

resumption law—

(a) means a law that provides for the compulsory acquisition of land, including, for example, the following—

- (i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

Examples of other laws for subparagraph (i)—

- *Electricity Act 1994*, section 116

- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY
 - (ii) the *Land Act 1994*, chapter 5, part 3, division 3;
 - (iii) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 456 to 458;
 - (iv) the *Queensland Reconstruction Authority Act 2011*, section 99;
 - (v) the *State Development and Public Works Organisation Act 1971*, section 82 or 125;
 - (vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but
- (b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

resumption notice, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or
- (b) otherwise—the instrument giving effect to the taking.

right to negotiate provisions, for the native title provisions, see schedule 1A, section 422.

road has the meaning given by the *Land Act 1994*.

road authority for chapter 10, see section 318EN.

road use direction see section 318EQ(1).

section 65 conference see section 66.

small scale mining activity see the Environmental Protection Act, schedule 4.

small scale mining code see section 391C(1).

special agreement Act means any of the following Acts and any agreement or lease under or mentioned in the Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;

- (b) *Central Queensland Coal Associates Agreement Act 1968*;
- (c) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (d) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (e) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (f) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (g) *Mount Isa Mines Limited Agreement Act 1985*;
- (h) *Queensland Nickel Agreement Act 1970*;
- (i) *Queensland Nickel Agreement Act 1988*;
- (j) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;
- (k) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

special criteria, for a call for EP (coal) tenders or EP (non-coal) tenders, see section 136C(2)(d)(iii).

specific purpose mining lease means a mining lease that, under section 234(1)(b), is granted for a purpose other than mining.

specified works, for part 10A, see section 382.

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

sub-block means a sub-block as described in section 126.

submission period, for chapter 8, part 2, see section 318AX(2).

submissions means written submissions.

take, in relation to land, includes acquire.

tender security, for an EP tender, means an amount given by the relevant tenderer as security for the tender.

termination includes expiry.

the public interest, for chapter 8, see section 318AK.

tribunal means the Land and Resources Tribunal.

unpaid royalty interest see section 332(1).

urgency notice, for schedule 1A, part 6, division 4, see schedule 1A, section 683(2).

watercourse, for chapter 12, part 3, see section 334V.

wet tropics area means the wet tropics area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*.

wild river area see the *Wild Rivers Act 2005*, schedule.

wild river declaration see the *Wild Rivers Act 2005*, schedule.

wild river high preservation area, for chapter 12, part 3, see section 334V.

wild river preservation area, for chapter 12, part 3, see section 334V.

wild river special floodplain management area see section 382.

work program, for activities to be carried out under a mining claim, means a document containing the following information about the activities—

- (a) the mining method to be used;
- (b) details of water storage facilities for the area of the mining claim;
- (c) information about mine workings on or to be located on the area of the claim or land adjoining the claim;
- (d) the quantity of minerals to be mined;
- (e) the treatment methods to be used on the mined minerals;
- (f) details of electrical equipment and explosives to be used for the activities;
- (g) information about the proposed hours of operation and the number of employees for the activities;

- (h) details of any buildings or other structures, including, for example, sheds and temporary accommodation buildings, located or to be located in the area;
- (i) other information about the activities prescribed under a regulation.

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 1 November 2013. Future amendments of the *Mineral Resources Act 1989* 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 version
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 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1992 Act No. 68	7 December 1992	1 June 1993
2	1994 Act No. 18	10 May 1994	13 May 1994
3	1995 Act No. 21	1 May 1995	19 June 1995
4	1995 Act No. 58	28 November 1995	22 December 1995

Endnotes

Reprint No.	Amendments to	Effective	Reprint date
4A	1996 Act No. 37	1 December 1996	10 January 1997
4B	1997 Act No. 17	1 July 1997	26 September 1997
4C	1998 Act No. 27	18 May 1998	16 June 1998
5	1998 Act No. 27	6 July 1998	30 September 1998
5A rv	2000 Act No. 36	18 September 2000	29 September 2000
5B rv	2000 Act No. 44	25 October 2000	9 November 2000
5C rv	2000 Act No. 64	24 November 2000	7 December 2000
6 rv	2000 Act No. 64	1 January 2001	19 January 2001
6A 2rv	2001 Act No. 46	28 June 2001	11 July 2001
Reprint No.	Amendments to	Effective	Reprint date
6B 2rv	2001 Act No. 46	15 July 2001	27 July 2001
6C 2rv	2002 Act No. 25	20 June 2002	20 June 2002
Reprint No.	Amendments included	Effective	Notes
6D 2rv	2002 Act No. 63	14 November 2002	
6E 2rv	2003 Act No. 10	28 March 2003	
6F 2rv	2003 Act No. 19 2003 Act No. 20	9 May 2003	R6F 2rv withdrawn, see R7 2rv
7 2rv	—	9 May 2003	Revision notice issued for R7
7A rv	2003 Act No. 56	18 September 2003	
7B rv	2003 Act No. 77	6 November 2003	
7C rv	2002 Act No. 63	15 November 2003	
7D rv	2003 Act No. 32	28 November 2003	
7E rv	1994 Act No. 8 (amd 2003 Act No. 54)	1 December 2003	
7F rv	2004 Act No. 4	6 May 2004	
7G rv	2004 Act No. 5	13 May 2004	
7H rv	2004 Act No. 1	21 May 2004	
7I rv	2003 Act No. 71	1 August 2004	
7J rv	2004 Act No. 25	12 October 2004	
7K 2rv	2004 Act No. 25 (amd 2004 Act No. 26)	31 December 2004	
7L 2rv	2004 Act No. 48	1 January 2005	R7L 2rv withdrawn, see R8 2rv
8 2rv	—	1 January 2005	Revision notice issued for R8 Revision notice no. 2 issued for R8
8A rv	2005 Act No. 3	3 March 2005	
8B rv	2005 Act No. 8	18 March 2005	
8C rv	2004 Act No. 12	25 March 2005	
8D	2005 Act No. 53	18 November 2005	
8E	2005 Act No. 42	2 December 2005	
8F	2005 Act No. 68	6 February 2006	R8F withdrawn, see R9
9	—	6 February 2006	
9A	2006 Act No. 31	1 June 2006	
9B	2006 Act No. 39	30 October 2006	

Reprint No.	Amendments included	Effective	Notes
9C	2006 Act No. 59	7 December 2006	
9D	2007 Act No. 39	21 September 2007	
9E	2007 Act No. 46	25 October 2007	
9F	2007 Act No. 46	14 December 2007	
9G	2007 Act No. 46	17 March 2008	
9H	2006 Act No. 20 (amd 2007 Act No. 56)	3 May 2008	
9I	2008 Act No. 28	9 May 2008	
10	2008 Act No. 37	21 May 2008	
10A	2008 Act No. 33	1 July 2008	
10B	2008 Act No. 56	5 November 2008	
10C	2008 Act No. 67	1 December 2008	
10D	2008 Act No. 52	1 January 2009	
10E rv	2009 Act No. 3	23 February 2009	
11 rv	—	25 February 2009	prov exp 24 February 2009 Revision notice issued for R11
11A rv	2009 Act No. 9 2009 Act No. 13 2009 Act No. 16	1 July 2009	
11B rv	2009 Act No. 25	2 November 2009	
11C rv	2009 Act No. 36	18 December 2009	
11D	2010 Act No. 12	26 March 2010	
11E	2010 Act No. 17	21 April 2010	
11F	2010 Act No. 19	23 May 2010	
11G	2009 Act No. 17 2010 Act No. 16	1 July 2010	
11H	2010 Act No. 31	1 September 2010	
11I	2010 Act No. 53	1 December 2010	
11J	2010 Act No. 31 (amd 2010 Act No. 52) 2010 Act No. 52	10 December 2010	R11J withdrawn, see R12
12	—	10 December 2010	
12A	2011 Act No. 2	17 March 2011	
12B	2011 Act No. 6	4 April 2011	
12C	2011 Act No. 16	19 May 2011	
12D	2011 Act No. 20	27 June 2011	
12E	2011 Act No. 20	1 July 2011	
12F	2011 Act No. 26	9 September 2011	
12G	2010 Act No. 44	30 January 2012	
12H	2010 Act No. 31 (amd 2011 Act No. 20)	2 March 2012	R12H withdrawn, see R13
13	—	2 March 2012	
13A	2012 Act No. 20	29 August 2012	
13B	2012 Act No. 25	1 October 2012	
13C	2012 Act No. 20	19 October 2012	
13D	2012 Act No. 20	7 December 2012	

Endnotes

Current as at	Amendments included	Notes
1 February 2013	2012 Act No. 43	
22 March 2013	2013 Act No. 10	
31 March 2013 rv	2012 Act No. 16 (amd 2013 Act No. 10) 2012 Act No. 20 (amd 2013 Act No. 10) 2013 Act No. 10	
3 May 2013	2013 Act No. 19	
14 May 2013 rv	2013 Act No. 23	
1 November 2013 rv	2013 Act No. 51	RA s 44

5 List of legislation

Mineral Resources Act 1989 No. 110

date of assent 25 October 1989

ss 1–1.2 commenced on date of assent

remaining provisions commenced 1 September 1990 (proc pubd gaz 14 July 1990 p 1647)

amending legislation—

Mineral Resources Act Amendment Act 1990 No. 30

date of assent 15 June 1990

commenced on date of assent

Supreme Court of Queensland Act 1991 No. 68 ss 1–2, 111 sch 2

date of assent 24 October 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 14 December 1991 (1991 SL No. 173)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

Primary Industries Corporation Act 1992 No. 15 ss 1–2, 13 sch

date of assent 13 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 30 September 1992 (1992 SL No. 271)

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 1

date of assent 7 December 1992

commenced on date of assent

Wet Tropics World Heritage Protection and Management Act 1993 No. 50 ss 1–2, 86 sch 3

date of assent 30 September 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1993 (1993 SL No. 396)

Local Government Act 1993 No. 70 ss 1–2, 804 sch

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

Mineral Resources Amendment Act 1994 No. 18

date of assent 10 May 1994

ss 1–2 commenced on date of assent

ss 4, 6 and 7 commenced 1 September 1990 (see s 2)

remaining provisions commenced on date of assent

Environmental Protection Act 1994 No. 62 ss 1–2, 616(2) (this Act is amended, see amending legislation below)

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provision commenced 1 January 2001

amending legislation—

Environmental Protection and Other Legislation Amendment Act 2000 No. 64 s 52 (amends 1994 No. 62 above)

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provision commenced 1 January 2001

Fossicking Act 1994 No. 63 ss 1–2, 110(2) sch

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1995 (1994 SL No. 465)

Mineral Resources Amendment Act 1995 No. 21

date of assent 11 April 1995

ss 1–2 commenced on date of assent

s 106(1), (3)–(4) commenced 1 September 1990 (see s 2(2))

remaining provisions commenced 1 May 1995 (1995 SL No. 117)

Statute Law (Minor Amendments) Act 1995 No. 50 ss 1, 3 sch

date of assent 22 November 1995

commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Mineral Resources Amendment Act 1997 No. 14

date of assent 15 May 1997

commenced on date of assent

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1, 3

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 6 July 1998 (1998 SL No. 52)

Offshore Minerals Act 1998 No. 10 ss 1–2, 446 sch 4

date of assent 12 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 14 April 1998 (1998 SL No. 80)

Mineral Resources Amendment Act 1998 No. 27

date of assent 18 May 1998

commenced on date of assent

Native Title (Queensland) State Provisions Amendment Act (No. 2) 1998 No. 38 pts 1, 3 (this Act is amended, see amending legislation below)

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 18 September 2000 (2000 SL No. 246)

amending legislation—

Native Title (Queensland) State Provisions Amendment Act 1999 No. 35 pts 1, 6 (amends 1998 No. 38 above)

date of assent 29 July 1999

ss 1–2 commenced on date of assent

pt 6 hdg, ss 52–53 commenced 12 November 1999 (1999 SL No. 274)

remaining provisions commenced 30 July 2000 (automatic commencement under AIA s 15DA(2))

Land and Resources Tribunal Act 1999 No. 7 ss 1–2, 87 sch 3

date of assent 18 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 18 September 2000 (2000 SL No. 244)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

Native Title (Queensland) State Provisions Amendment Act 1999 No. 35 pts 1, 4

date of assent 29 July 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 30 July 2000 (automatic commencement under AIA s 15DA(2))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 12 sch 1

date of assent 27 June 2000

commenced on date of assent

Native Title Resolution Act 2000 No. 36 pts 1, 3, s 18 sch 1, s 19 sch 2

date of assent 13 September 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 18 September 2000 (2000 SL No. 245)

Nature Conservation and Other Legislation Amendment Act 2000 No. 44 ss 1, 42 sch

date of assent 25 October 2000

commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1, 2(2), pt 4, ss 60(2), 174 sch

date of assent 24 November 2000

ss 1–2, 146, 167 (to the extent it ins the Mineral Resources Act 1989 pt 19, div 3, hdg, s 736) commenced on date of assent

remaining provisions commenced 1 January 2001 (2000 SL No. 350)

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

State Development and Other Legislation Amendment Act 2001 No. 46 ss 1, 2(2)–(4), pt 6

date of assent 28 June 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 28 June 2001 (2001 SL No. 101)

Natural Resources and Mines Legislation Amendment Act 2002 No. 25 pts 1, 4

date of assent 20 June 2002
commenced on date of assent

Mineral Resources Amendment Act 2002 No. 62

date of assent 14 November 2002
commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2002 No. 63 pts 1–2

date of assent 14 November 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 15 November 2003 (automatic commencement under AIA s 15DA(2))

Natural Resources and Other Legislation Amendment Act 2003 No. 10 pts 1, 6, s 76 sch

date of assent 28 March 2003
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch

date of assent 9 May 2003
commenced on date of assent

Land Legislation Amendment Act 2003 No. 20 s 1, pt 4

date of assent 9 May 2003
commenced on date of assent

Queensland Heritage and Other Legislation Amendment Act 2003 No. 32 pts 1, 6

date of assent 23 May 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 28 November 2003 (2003 SL No. 267)

Transport Infrastructure Act 1994 No. 8 s 491(3) sch 5 (this Act is amended, see amending legislation below)

amending legislation—

Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)

date of assent 18 September 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2003 (2003 SL No. 294)

Mineral Resources and Another Act Amendment Act 2003 No. 56 pts 1–2

date of assent 18 September 2003
commenced on date of assent

Survey and Mapping Infrastructure Act 2003 No. 71 ss 1–2, pt 9 div 2

date of assent 22 October 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 1 August 2004 (2004 SL No. 129)

Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(2), pt 20

date of assent 6 November 2003

commenced on date of assent (see s 2(2))

Vegetation Management and Other Legislation Amendment Act 2004 No. 1 ss 1–2, 44(1) sch 1

date of assent 29 April 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 21 May 2004 (2004 SL No. 62)

Natural Resources and Other Legislation Amendment Act 2004 No. 4 s 1, pt 6A, s 57 sch

date of assent 6 May 2004

commenced on date of assent

Aurukun Associates Agreement Repeal Act 2004 No. 5 ss 1, 8 sch

date of assent 13 May 2004

commenced on date of assent

Geothermal Exploration Act 2004 No. 12 ss 1–2, ch 8 pt 5

date of assent 31 May 2004

ss 1–2 commenced on date of assent

s 152 commenced 25 March 2005 (2005 SL No. 43) (amdt could not be given effect)

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

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1–2, 1009–1029 (prev ss 949–969) (this Act is amended, see amending legislation below)

date of assent 12 October 2004

ss 1–2, 1028 (to the extent it ins pt 19 div 6 sdivs 1–2) commenced on date of assent (see s 2(1))

remaining provisions commenced 31 December 2004 (2004 SL No. 308 (see s 2(2)))

amending legislation—

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1–2(1), 259–263, 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))

Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 8

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 315)

Petroleum and Other Legislation Amendment Act 2005 No. 3 pts 1–2, s 105 sch

date of assent 3 March 2005

s 7 commenced 12 October 2004 (see s 2)

remaining provisions commenced on date of assent

Endnotes

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1–2, s 2 sch
date of assent 18 March 2005
commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1
date of assent 14 October 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 s 1, pt 8
date of assent 18 November 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)

Recreation Areas Management Act 2006 No. 20 ss 1–2, 252 (this Act is amended, see amending legislation below)
date of assent 2 May 2006
ss 1–2 commenced on date of assent
remaining provision commenced 3 May 2008 (automatic commencement under AIA s 15DA(2) (2007 SL No. 56 s 2))
amending legislation—

Environmental Protection and Other Legislation Amendment Act 2007 No. 56 ss 1, 45 (amends 2006 No. 20 above)
date of assent 9 November 2007
commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2006 No. 31 s 1, pt 2
date of assent 1 June 2006
commenced on date of assent

Education (General Provisions) Act 2006 No. 39 ss 1, 2(3), 512(1) sch 1
date of assent 11 August 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 30 October 2006 (2006 SL No. 247)

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 8, s 85 sch
date of assent 7 December 2006
commenced on date of assent

Land Court and Other Legislation Amendment Act 2007 No. 39 pts 1, 4, s 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, 6

date of assent 25 October 2007

ss 1–2, 91A commenced on date of assent (see s 2)

pt 6 hdg, ss 64, 88–90 commenced 14 December 2007 (2007 SL No. 313)

remaining provisions commenced 17 March 2008 (2007 SL No. 313)

Mineral Resources (Peak Downs Mine) Amendment Act 2008 No. 28

date of assent 9 May 2008

commenced on date of assent

Clean Energy Act 2008 No. 33 ss 1–2, pt 13

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (2008 SL No. 191)

Environmental Protection and Other Legislation Amendment Act 2008 No. 37 pts 1, 4

date of assent 21 May 2008

commenced on date of assent

Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No. 52 ss 1–2, 98 sch 2

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2009 (2008 SL No. 388)

Mines and Energy Legislation Amendment Act 2008 No. 56 s 1, pt 5, s 19 sch

date of assent 5 November 2008

ss 1–2 commenced on date of assent

ss 27, 54, 68 commenced on date of assent (but see also s 773 as ins 2009 No. 3 s 516)

remaining provisions commenced on date of assent

Transport and Other Legislation Amendment Act 2008 No. 67 s 1, pt 3 div 10

date of assent 1 December 2008

commenced on date of assent

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 17

date of assent 23 February 2009

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Right to Information Act 2009 No. 13 ss 1–2, 213 sch 5

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 132)

Mines and Energy Legislation Amendment Act 2009 No. 16 ss 1, 2(2), pt 7

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 109)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

Natural Resources and Other Legislation Amendment Act 2010 No. 12 s 1, pt 14

date of assent 26 March 2010

commenced on date of assent

Credit (Commonwealth Powers) Act 2010 No. 16 ss 1–2, 35 sch

date of assent 21 April 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 112)

Mines and Energy Legislation Amendment Act 2010 No. 17 s 1, pt 8, s 48 sch

date of assent 21 April 2010

commenced on date of assent

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 12

date of assent 23 May 2010

commenced on date of assent

Geothermal Energy Act 2010 No. 31 ss 1, 2(1), (2)(b), ch 10 pt 1 div 4, pt 2 div 2, pt 3 div 5, ss 420, 450, 520, sch 2 pt 2 (this Act is amended, see amending legislation below)

date of assent 1 September 2010

ss 1–2, ch 10 pt 1 div 4, s 420 commenced on date of assent (see s 2(2)(b))

ch 10 pt 2 div 2 commenced 10 December 2010 (2010 SL No. 353)

remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

amending legislation—

Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1, 5 (amends 2010 No. 31 above)

date of assent 1 December 2010

commenced on date of assent (see s 2)

Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011 No. 20 ss 1, pt 8 (amends 2010 No. 31 above)

date of assent 27 June 2011
commenced on date of assent

Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 26

date of assent 14 October 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 30 January 2012 (2011 SL No. 262)

Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1, 7

date of assent 1 December 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 10 December 2010 (2010 SL No. 351)

Water and Other Legislation Amendment Act 2010 No. 53 s 1, pt 6

date of assent 1 December 2010
commenced on date of assent

Mines and Energy Legislation Amendment Act 2011 No. 2 s 1, pt 8

date of assent 17 March 2011
commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2011 No. 6 ss 1, 142 sch

date of assent 4 April 2011
commenced on date of assent

Gas Security Amendment Act 2011 No. 16 s 1, pt 2

date of assent 19 May 2011
commenced on date of assent

Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011 No. 20 ss 1, 2(2)(d), pt 10

date of assent 27 June 2011
ss 1–2 commenced on date of assent
pt 10 div 3 commenced 1 July 2011 (see s 2(2)(d))
remaining provisions commenced on date of assent

Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011 No. 26 pt 1, s 189 sch

date of assent 29 August 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 9 September 2011 (2011 SL No. 173)

Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 No. 16 pt 1, s 78 sch (this Act is amended, see amending legislation below)

date of assent 14 August 2012

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 2013 (2013 SL No. 24)

amending legislation—

Mining and Other Legislation Amendment Act 2013 No. 10 ss 1, 5, 21(2)–(5) (amends 2012 No. 16 above)

date of assent 22 March 2013

commenced on date of assent

Mines Legislation (Streamlining) Amendment Act 2012 No. 20 chs 1, 2 pt 5, ch 3 pt 4, ch 4 pt 1, s 125 sch 1, s 281 sch 2, s 323 sch 3 (this Act is amended, see amending legislation below)

date of assent 29 August 2012

ss 1–2, ch 2 pt 5, s 125 sch 1 commenced on date of assent

ss 155–156, 160–161, 168, 169 (other than to the extent it ins s 129(1)(c)(ii), example), 170, 172–173, 190–191, 194–195, 196(2), 197, 198(1)–(2), (4)–(6), 199–200, 202, 204–206, 208(1), 210–211, 213(2), 214, 218, 223–224, 227, 228 (to the extent it ins ss 386L–386N), 232, 236–240, 242, 243 (other than to the extent it ins s 795 and sdivs 5–6), 244 (to the extent it ins def *appropriately qualified*), 281 sch 2, entry for Mineral Resources Act 1989, items 68, 75, 90, 93–98, 100–104, 107–109, 115–116, 120–122, 124–126, 128–130, 143–154 commenced 19 October 2012 (2012 SL No. 181)

ss 159, 167, 171, 175–176, 180, 183–184, 188(2), 192–193, 196 (to the extent it has not already commenced), 198 (to the extent it has not already commenced), 201, 207, 212, 219, 228 (to the extent it ins ss 386J, 386K, 386O and 386P), 231, 234–235, 241, 243 (to the extent it ins sdiv 6), 244(1) (to the extent it om def *relevant departmental office*), (2) (to the extent it ins defs *apply, file, forward, give, lodge and make a submission*), 281 sch 2, entry for Mineral Resources Act 1989, items 1–2, 4–17, 20–35, 38–42, 44–49, 51–52, 54–55, 57–67, 69–74, 76–89, 91–92, 99, 105–106, 110–114, 117–119, 123, 127, 131 and 135–139 commenced 7 December 2012 (2012 SL No. 225)

remaining provisions commenced 31 March 2013 immediately before the commencement of the provisions of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 commencing on that day (see 2013 SL No. 35 and 2013 SL No. 24)

amending legislation—

Mining and Other Legislation Amendment Act 2013 No. 10 ss 1, 144, 148–153, 156–159 (amends 2012 No. 20 above)

date of assent 22 March 2013

commenced on date of assent

Fiscal Repair Amendment Act 2012 No. 25 ss 1, 2(4), pt 6

date of assent 21 September 2012
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 October 2012 (see s 2(4))

Economic Development Act 2012 No. 43 ss 1, 2(c), 325 sch 2

date of assent 11 December 2012
 ss 1–2 commenced on date of assent
 s 325 commenced on date of assent (see s 2(c))
 remaining provisions commenced 1 February 2013 (2013 SL No. 1)

Aboriginal and Torres Strait Islander Land Holding Act 2013 No. 2 ss 1–2, pt 12 div 6

date of assent 19 February 2013
 ss 1–2 commenced on date of assent
 remaining provisions not yet proclaimed into force (see s 2)

Mining and Other Legislation Amendment Act 2013 No. 10 s 1, 2(c), (e)–(f), pt 7, s 193 sch 1

date of assent 22 March 2013
 ss 1–2, pt 7 divs 1–2 commenced on date of assent
 remaining provisions commenced 31 March 2013 immediately after the commencement of the provisions of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 commencing on that day (see 2013 SL No. 36 and 2013 SL No. 24)

Queensland Rail Transit Authority Act 2013 No. 19 ss 1, 120 sch 1

date of assent 3 May 2013
 commenced on date of assent

Land, Water and Other Legislation Amendment Act 2013 No. 23 ss 1, 352 sch 1 pt 1

date of assent 14 May 2013
 commenced on date of assent

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 41, s 229 sch 1

date of assent 29 October 2013
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 November 2013 (see s 2(1))

6 List of annotations

This Act has been renumbered—see table of renumbered provisions in endnote 8.

CHAPTER 1—PRELIMINARY

ch hdg ins 2012 No. 20 s 283

PART 1—INTRODUCTION

pt hdg sub 2012 No. 20 s 283

Commencement

s 1.2 om R3 (see RA s 37)

Objectives of Act

s 2 amd 1990 No. 30 s 2

PART 2—APPLICATION OF ACT GENERALLY ETC.

pt hdg ins 2012 No. 20 s 284

Application of Act to Commonwealth land and coastal waters of the State

prov hdg amd 1995 No. 21 s 4(1)

s 3 amd 1992 No. 20 s 159 sch 2; 1995 No. 21 s 4(2); 1998 No. 10 s 446 sch 4

Relationship with petroleum legislation

s 3A ins 2004 No. 25 s 1010 (amd 2004 No. 26 s 259)

amd 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3

Relationship with Geothermal Energy Act 2010 and Greenhouse Gas Storage Act 2009

s 3B ins 2009 No. 3 s 510

sub 2010 No. 31 s 521

amd 2012 No. 20 s 323 sch 3

Declaration for Commonwealth Act

s 3C ins 2010 No. 44 s 121

Repeals

s 1.5 om R1 (see RA s 40)

Amendment of Oaths Act 1867

s 1.6 om R1 (see RA s 40)

Effect of change of baseline

s 4 amd 1997 No. 14 s 3

sub 1998 No. 10 s 446 sch 4

amd 2000 No. 64 s 174 sch; 2004 No. 1 s 44(1) sch 1; 2012 No. 20 s 125 sch 1

PART 3—RELATIONSHIP WITH SUSTAINABLE PLANNING ACT 2009

pt hdg ins 2012 No. 12 s 285

Effect on development

prov hdg amd 1993 No. 70 s 804 sch

s 4A (prev s 319) amd 1993 No. 70 s 804 sch; 1995 No. 21 s 3 sch; 2000 No. 64 s 160; 2003 No. 32 s 33

sub 2005 No. 8 s 37

amd 2007 No. 46 s 86; 2009 No. 36 s 872 sch 2; 2011 No. 6 s 142 sch

reloc and renum 2012 No. 20 s 304

Notice to local government and chief executive (planning) of particular mining tenements

prov hdg amd 2012 No. 20 s 305(1)

s 4B (prev s 319A) ins 2005 No. 8 s 37

amd 2009 No. 36 s 872 sch 2; 2011 No. 6 s 142 sch; 2012 No. 20 s 125 sch 1

reloc and renum 2012 No. 20 s 305(2)

amd 2013 No. 10 s 79

PART 4—INTERPRETATION**pt hdg** ins 2012 No. 12 s 285**Definitions****prov hdg** sub 1997 No. 14 s 4(1)**s 5** amd 1991 No. 97 s 3 sch 2; 2000 No. 64 s 61(1); 2010 No. 31 ss 420, 520 sch 2 pt 2

Note—s 5 contained definitions for this Act. Definitions are now located in schedule 2—Dictionary.

Meaning of *mineral***s 6** prev s 6 ins 1995 No. 21 s 6

amd 1997 No. 80 s 42

om 2000 No. 64 s 62

pres s 6 ins 2004 No. 25 s 1011

amd 2008 No. 33 s 76; 2012 No. 20 s 125 sch 1, s 323 sch 3

Meaning of *mine***s 6A** ins 1997 No. 14 s 5

amd 2012 No. 20 s 125 sch 1

Meaning of *prospect***s 6B** ins 1999 No. 35 s 14**What is carrying out *improvement restoration*****s 6C** ins 2000 No. 64 s 63

amd 2012 No. 20 s 125 sch 1

Types of authority under Act**s 6D** prev s 6D ins 2004 No. 25 s 1012

om 2007 No. 46 s 65

pres s 6D ins 2012 No. 20 s 156

When educational institution is an eligible person**s 7** ins 1995 No. 21 s 6**PART 5—GENERAL PROVISIONS FOR MINERALS AND MINING TENEMENTS****pt hdg** ins 2012 No. 20 s 286**Crown's property in minerals****s 8** amd 1995 No. 21 s 7; 1995 No. 57 s 4 sch 2; 2012 No. 20 s 125 sch 1**Exclusive right of Crown to grant mining leases etc. irrespective of ownership of mineral****s 9** amd 1995 No. 21 s 8; 2000 No. 64 s 174 sch**Act does not create estates in land****s 10** amd 2000 No. 64 s 174 sch**Extinguishing mining tenement interests on the taking of land in a mining tenement's area (other than by an easement)****s 10AAA** ins 2012 No. 20 s 48

Effect of extinguishment of mining tenement interests on the taking of land in a mining tenement's area (other than by an easement)

s 10AAB ins 2012 No. 20 s 48

Applications relating to land taken under a resumption law for which mining tenement interests were extinguished

s 10AAC ins 2012 No. 20 s 48
amd 2013 No. 10 s 193 sch 1

Compensation for effect of taking of land in a mining tenement's area on mining tenement interests

s 10AAD ins 2012 No. 20 s 48

Joint holders of mining tenement

s 10AA ins 2008 No. 56 s 20
amd 2013 No. 10 s 46; 2012 No. 20 ss 157, 281 sch 2; 2013 No. 10 s 193 sch 1

Extension of certain entitlements to registered native title bodies corporate and registered native title claimants

s 10A ins 1999 No. 35 s 15
amd 2000 No. 64 s 174 sch; 2010 No. 31 s 451; 2012 No. 20 ss 158, 323 sch 3

PART 6—MINING DISTRICTS

pt hdg (prev pt 2 hdg) sub 2012 No. 20 s 287

Mining districts

s 11 amd 1992 No. 68 s 3 sch 1
sub 2008 No. 33 s 77

Identification of mining districts

s 12 om 2008 No. 33 s 77

CHAPTER 2—PROSPECTING PERMITS

ch hdg (prev pt 3 hdg) sub 2012 No. 20 s 288(2)

PART 1—PROSPECTING PERMIT CATEGORIES AND ENTITLEMENTS

pt hdg (prev pt 3 div 1 hdg) ins 1995 No. 21 s 9
sub 2012 No. 20 s 288(2)

Definition for pt 1

prov hdg sub 2008 No. 33 s 78
amd 2012 No. 20 s 323 sch 3

s 13 sub 1995 No. 21 s 9
amd 2012 No. 20 s 323 sch 3

Categories of prospecting permit

s 14 sub 1995 No. 21 s 9

Area of land covered by parcel prospecting permit

s 15 amd 1994 No. 63 s 110(2) sch
sub 1995 No. 21 s 9
amd 1995 No. 50 s 3 sch

Land excluded from prospecting permit

s 16 sub 1995 No. 21 s 9
amd 2012 No. 20 s 125 sch 1

Prospecting permit to be granted to a single person

s 17 sub 1995 No. 21 s 9

Entitlements under prospecting permit

s 18 ins 1995 No. 21 s 9

Consent required to enter certain land

s 19 ins 1995 No. 21 s 9
amd 1995 No. 58 s 4 sch 1

Provisions about consents to enter land

s 20 ins 1995 No. 21 s 9
amd 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1; 2013 No. 51 s 229 sch 1

PART 2—OTHER PROVISIONS ABOUT PROSPECTING PERMITS

pt hdg (prev pt 3 div 2 hdg) ins 1995 No. 21 s 9
sub 2012 No. 20 s 288(2)

Application for prospecting permit

s 21 ins 1995 No. 21 s 9
amd 2000 No. 64 s 64; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Reason for rejection of application to be given

s 22 amd 2000 No. 64 s 65; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Refund upon rejection of application

s 23 amd 2013 No. 10 s 193 sch 1

Grant of prospecting permit

s 24 amd 1994 No. 63 s 110(2) sch; 1995 No. 21 ss 10, 3 sch; 1999 No. 35 s 16;
2008 No. 33 s 79; 2012 No. 20 ss 49, 323 sch 3; 2013 No. 10 s 193 sch 1

Content of prospecting permit

s 24A ins 2008 No. 33 s 80
amd 2013 No. 10 s 193 sch 1

Conditions of prospecting permit

s 25 amd 1998 No. 38 s 8; 1999 No. 35 s 17; 2000 No. 64 ss 66, 174 sch; 2006 No.
59 s 47; 2012 No. 20 s 323 sch 3; 2012 No. 16 s 78 sch (amd 2013 No. 10 s
21(2)); 2013 No. 10 s 193 sch 1

Additional conditions of prospecting permit relating to native title

s 25AA ins 2003 No. 10 s 32
amd 2013 No. 10 s 193 sch 1

Indigenous land use agreement conditions

s 25A ins 1999 No. 35 s 18
amd 2000 No. 36 s 18 sch 1

Endnotes

Provision of security

s 26 amd 1995 No. 21 s 11; 1997 No. 17 s 74 sch; 2000 No. 64 s 67; 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Utilisation of security deposit towards subsequent prospecting permit

s 27 amd 2013 No. 10 s 193 sch 1

Compensation

s 28 amd 1990 No. 30 s 4; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1

Term of prospecting permit

s 29 sub 1995 No. 21 s 12
amd 1997 No. 17 s 74 sch

Rights and obligations extended upon application for mining claim etc.

s 30 amd 2012 No. 20 s 125 sch 1

Chief executive to notify owners of occupied land of grant of parcel prospecting permit

prov hdg amd 1995 No. 21 s 13(1); 2013 No. 10 s 193 sch 1
s 31 amd 1995 No. 21 s 13(2); 2000 No. 64 s 68; 2013 No. 10 s 193 sch 1

Notice of entry under parcel prospecting permit

s 32 sub 1990 No. 30 s 5; 1995 No. 21 s 14
amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Report to chief executive by owner of land

prov hdg amd 2013 No. 10 s 193 sch 1
s 34 amd 2013 No. 10 s 193 sch 1

Penalty for breach of conditions

s 35 amd 2013 No. 10 s 193 sch 1

Cancellation of prospecting permit

s 36 amd 1995 No. 21 s 3 sch; 2013 No. 10 s 193 sch 1

Surrender of prospecting permit

s 37 amd 2000 No. 64 s 69; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Appeals about prospecting permits

s 38 sub 1995 No. 21 s 15
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1;
2013 No. 10 s 193 sch 1

How to start an appeal

s 39 ins 1995 No. 21 s 15
amd 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2012
No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Stay of operation of decisions

s 40 ins 1995 No. 21 s 15
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Hearing procedures

s 41 ins 1995 No. 21 s 15
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Powers of Land Court on appeal

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

s 42 ins 1995 No. 21 s 15
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Royalties in respect of minerals taken under prospecting permit

s 44 amd 2012 No. 20 s 323 sch 3

Holder of prospecting permit to rehabilitate land

s 45 om 2000 No. 64 s 70

Production of prospecting permit

s 46 amd 2013 No. 10 s 193 sch 1

Staying on occupied land

s 47 sub 1995 No. 21 s 16
amd 2000 No. 64 s 71; 2013 No. 10 s 193 sch 1

CHAPTER 3—MINING CLAIMS

pt hdg (prev pt 4 hdg) sub 2012 No. 20 s 289

Land in area of mining claim

prov hdg amd 2012 No. 20 s 125 sch 1

s 48 amd 2012 No. 20 ss 50, 125 sch 1; 2013 No. 10 s 80

Entitlements under mining claim

s 50 amd 1995 No. 21 s 3 sch; 2000 No. 64 s 72; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 81

Land for which mining claim not to be granted

s 51 amd 1994 No. 63 s 110(2) sch
sub 1995 No. 21 s 17
amd 1995 No. 58 s 4 sch 1; 2004 No. 12 s 151; 2010 No. 31 s 522; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 82

Area and shape of mining claim land

s 53 amd 1992 No. 68 s 3 sch 1; 1995 No. 21 s 18; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 83

Restriction upon number of mining claims

s 55 amd 2013 No. 10 s 84

Marking out land before application for grant of mining claim

s 56 amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 85

Manner of marking out land proposed to be subject of mining claim

s 57 amd 1990 No. 30 s 6; 2000 No. 64 s 174 sch; 2003 No. 71 s 76

Consent of chief executive required to certain marking out of land

prov hdg amd 2013 No. 10 s 86(1)

s 58 amd 2013 No. 10 s 86(2)–(3)

Time for application for grant of mining claim

s 59 amd 2005 No. 8 s 2 sch; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2013 No. 10 s 87

If application for mining claim not made, is rejected or abandoned, posts etc. to be removed

s 60 amd 1995 No. 21 s 3 sch; 2005 No. 8 s 2 sch

Application for grant of mining claim

s 61 amd 1995 No. 21 ss 19, 3 sch; 2000 No. 64 ss 73, 174 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 88

Description of mining claim

s 62 amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Priority of mining claim applications

s 63 sub 2012 No. 20 s 159
amd 2013 No. 10 s 193 sch 1

Issue of mining claim application certificate

s 64 amd 1990 No. 30 s 7; 1995 No. 21 ss 20, 3 sch; 1999 No. 7 s 87 sch 3; 2000 No. 64 s 74; 2005 No. 8 s 2 sch
sub 2013 No. 10 s 89

Issue of certificate of public notice

s 64A ins 2000 No. 64 s 75
amd 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2004 No. 48 s 155; 2005 No. 8 s 2 sch; 2005 No. 53 s 127; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2012 No. 16 s 78 sch amdts 2–3 (om 2013 No. 10 s 21(3))
om 2013 No. 10 s 90

Applicant's obligations for mining claim application certificate

s 64B ins 2000 No. 64 s 75
amd 2005 No. 8 s 2 sch
sub 2013 No. 10 s 91

Declaration of compliance with obligations

s 64C ins 2000 No. 64 s 75
amd 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 92

Continuing obligation to notify

s 64D ins 2000 No. 64 s 75
amd 2013 No. 10 s 93

Chief executive may call conference in some cases

prov hdg amd 2013 No. 10 s 193 sch 1
s 65 sub 1995 No. 21 s 21
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Who may attend conference

s 66 ins 1995 No. 21 s 21
amd 2013 No. 10 s 193 sch 1

What happens if someone does not attend

s 67 ins 1995 No. 21 s 21
amd 2013 No. 10 s 193 sch 1

Chief executive's function at section 65 conference

prov hdg amd 2013 No. 10 s 193 sch 1
s 68 ins 1995 No. 21 s 21
amd 2013 No. 10 s 193 sch 1

Agreements and statements at section 65 conference

s 69 ins 1995 No. 21 s 21
amd 2013 No. 10 s 193 sch 1

Land Court may award costs

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 70 ins 1995 No. 21 s 21
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Objection to application for grant of mining claim

s 71 amd 1993 No. 50 s 86 sch 3; 1995 No. 21 s 22; 2005 No. 8 s 2 sch; 2013 No. 10 s 94

Objection may be withdrawn

s 71A ins 2012 No. 20 s 160
amd 2013 No. 10 s 193 sch 1

Referral to Land Court of application and objections

prov hdg amd 2007 No. 39 s 41 sch
s 72 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 76
sub 2005 No. 8 s 3
amd 2007 No. 39 s 41 sch; 2010 No. 17 s 49; 2012 No. 20 s 161; 2013 No. 10 s 193 sch 1

Rejection of application for grant of mining claim for noncompliance

s 73 amd 2000 No. 64 s 77; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2013 No. 10 s 193 sch 1

Grant of mining claim to which no objection is lodged

s 74 sub 1995 No. 21 s 23
amd 1999 No. 35 s 19; 2000 No. 64 ss 78, 174 sch; 2005 No. 8 s 2 sch; 2008 No. 56 s 24; 2012 No. 20 ss 51, 281 sch 2, s 323 sch 3; 2012 No. 16 s 78 sch; 2013 No. 10 s 95

Referral to Land Court of application to which no objection lodged

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 75 amd 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2000 No. 64 s 79
sub 2005 No. 8 s 4
amd 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Referral to Land Court of issue of reserve owner's consent

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 76 sub 1995 No. 21 s 24
amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 80

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sub 2005 No. 8 s 4
amd 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Land Court hearing

prov hdg sub 1995 No. 21 s 25(1)
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 77 amd 1995 No. 21 s 25(2); 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Land Court's determination on hearing

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 78 amd 1990 No. 30 s 8; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2008 No. 56 s 25; 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

Consent to grant of mining claim over reserve by Governor in Council

s 79 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Grant of mining claim at instruction of Land Court or with consent of Governor in Council

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 80 amd 1995 No. 21 s 26; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 81, 174 sch; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2012 No. 20 ss 52, 281 sch 2; 2013 No. 10 s 193 sch 1

Conditions of mining claim

s 81 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 82, 174 sch; 2005 No. 8 s 5; 2006 No. 59 s 48; 2007 No. 39 s 41 sch; 2008 No. 56 s 26; 2012 No. 20 ss 162, 125 sch 1, s 323 sch 3; 2013 No. 10 s 96

Consultation and negotiated agreement conditions

s 81A ins 1999 No. 35 s 20
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 125 sch 1, s 323 sch 3; 2013 No. 10 s 193 sch 1

Other agreement conditions

s 81B ins 1999 No. 35 s 20
amd 2000 No. 36 s 18 sch 1

Variation of conditions of mining claim

s 82 amd 1999 No. 35 s 21; 2000 No. 36 s 18 sch 1; 2000 No. 64 s 83; 2008 No. 56 s 27; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 97

Provision of security

s 83 amd 1995 No. 21 s 27; 1997 No. 17 s 74 sch; 1999 No. 7 s 87 sch 3; 2000 No. 64 s 84; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 98

Utilisation of security deposit towards subsequent mining claim

s 84 amd 2013 No. 10 s 193 sch 1

Compensation to be settled before grant or renewal of mining claim

prov hdg amd 2005 No. 8 s 6(1)
s 85 amd 1995 No. 21 s 28; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 6(2)–(4); 2007 No. 39 s 41 sch; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2013 No. 10 s 193 sch 1

Referral to Land Court of issue of compensation if not settled within 3 months after term of claim ends

prov hdg amd 2007 No. 39 s 41 sch
s 85A ins 2005 No. 8 s 7
 amd 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Appeal against Land Court's determination upon compensation

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 30(1)
s 86 amd 1995 No. 21 s 29; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 30(2)–(7); 2013 No. 10 s 193 sch 1

Security for costs of appeal

s 86A ins 2007 No. 39 s 31

Public trustee may act in certain circumstances

s 87 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
 amd 2012 No. 20 s 323 sch 3

Issue of certificate of grant for mining claim

s 88 amd 1995 No. 21 s 3 sch
 sub 2013 No. 10 s 99

Reasons for rejection of application for grant of mining claim

s 89 amd 2000 No. 64 s 85; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Duty of holder of mining claim to mark boundary posts

s 90 amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 100

Initial term of mining claim

s 91 amd 1999 No. 35 s 22; 2012 No. 20 s 163 (amd 2013 No. 10 s 148); 2013 No. 10 s 193 sch 1

Renewal of mining claim

s 93 amd 1995 No. 21 ss 30, 3 sch; 1999 No. 7 s 87 sch 3; 1999 No. 35 s 23; 2000 No. 64 ss 86, 174 sch; 2005 No. 8 s 8; 2007 No. 39 s 41 sch; 2008 No. 56 s 28; 2012 No. 20 ss 53, 164 (amd 2013 No. 10 s 149), s 125 sch 1, s 281 sch 2, s 323 sch 3; 2013 No. 10 s 101

Continuation of claim while application being dealt with

s 93A ins 2005 No. 8 s 9

When term of renewed claim starts

s 93B ins 2005 No. 8 s 9

When new conditions of renewed claim start

s 93C ins 2005 No. 8 s 9

Renewal of claim must be in name of last recorded transferee

prov hdg amd 2012 No. 20 s 165(1)
s 93D ins 2005 No. 8 s 9
 amd 2008 No. 33 s 81; 2012 No. 20 s 165; 2013 No. 10 s 193 sch 1

Reasons for rejection of application for renewal of mining claim

s 94 amd 2000 No. 64 s 87; 2013 No. 10 s 193 sch 1

Endnotes

Rental payable on mining claim

prov hdg sub 2000 No. 64 s 88

s 95 amd 1995 No. 21 s 31; 2002 No. 62 s 3; 2005 No. 8 s 2 sch; 2008 No. 56 s 29;
2013 No. 10 s 193 sch 1

Assignment or mortgage of mining claim

s 96 amd 2000 No. 64 ss 88, 174 sch; 2005 No. 8 s 2 sch; 2011 No. 20 s 168
om 2012 No. 20 s 166

Lodgement of caveat

s 97 amd 1990 No. 30 s 9; 1995 No. 21 s 3 sch
om 2012 No. 20 s 166

Mining registrar's functions upon receipt of caveat

s 98 om 2012 No. 20 s 166

Effect of caveat

s 99 amd 1990 No. 30 s 10; 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2007 No.
39 s 41 sch
om 2012 No. 20 s 166

Second caveat not available to same person

s 100 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 166

Removal or withdrawal of caveat

s 101 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 166

Compensation for lodging caveat without reasonable cause

s 102 om 2012 No. 20 s 166

Correction of certificate of grant of mining claim

s 103 amd 1995 No. 21 s 32; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Replacement of certificate of grant of mining claim

s 104 amd 2013 No. 10 s 193 sch 1

Mining other minerals

s 105 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 89; 2007 No. 39 s 41 sch; 2012 No.
20 ss 167, 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Contravention by holder of mining claim

s 106 amd 1995 No. 21 s 3 sch; 2000 No. 64 s 90; 2008 No. 56 s 30; 2012 No. 20 s
281 sch 2; 2013 No. 10 s 193 sch 1

Surrender of mining claim

s 107 amd 1995 No. 21 ss 33, 3 sch; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 91, 174
sch; 2007 No. 39 s 41 sch; 2011 No. 20 s 169; 2012 No. 20 s 125 sch 1, s
281 sch 2; 2012 No. 16 s 78 sch; 2013 No. 10 s 102

Abandonment of application for mining claim

s 108 amd 2000 No. 64 ss 92, 174 sch; 2012 No. 20 ss 168, 125 sch 1, 281 sch 2;
2013 No. 10 s 103

Improvement restoration for mining claim

- prov hdg** sub 2000 No. 64 s 93
s 109 ins 1995 No. 21 s 34
amd 2000 No. 64 ss 93, 174 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Use of machinery in mining claim area

- prov hdg** amd 2012 No. 20 s 125 sch 1
s 110 amd 1992 No. 68 s 3 sch 1; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 104

Declaration of prohibited machinery in mining claim area

- prov hdg** amd 2012 No. 20 s 125 sch 1
s 111 amd 1992 No. 68 s 3 sch 1; 2012 No. 20 s 125 sch 1

Minister may authorise use of prohibited machinery for purposes other than mining etc.

- prov hdg** amd 2013 No. 10 s 193 sch 1
s 112 sub 1992 No. 68 s 3 sch 1
amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Prohibited machinery etc. not to be used on mining claim land

- s 113** amd 1992 No. 68 s 3 sch 1; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Royalties in respect of minerals taken under mining claim

- s 115** amd 2012 No. 20 s 323 sch 3

Appeals about mining claims

- s 116** sub 1995 No. 21 s 35
amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 94; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

How to start an appeal

- s 117** ins 1995 No. 21 s 35
amd 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Stay of operation of decisions

- s 118** ins 1995 No. 21 s 35
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Hearing procedures

- s 119** ins 1995 No. 21 s 35
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Powers of Land Court on appeal

- prov hdg** amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 120 ins 1995 No. 21 s 35
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Effect of termination of mining claim

- s 121** sub 1995 No. 21 s 36
amd 2012 No. 20 s 125 sch 1

Application may be made for approval to remove mineral and property

s 122 ins 1995 No. 21 s 36
amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Property remaining on former mining claim may be sold etc.

s 123 ins 1995 No. 21 s 36
amd 2000 No. 64 ss 95, 174 sch; 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2012 No. 20 s 125 sch 1; 2012 No. 16 s 78 sch; 2013 No. 10 s 105

Approval for prospecting or exploring on reserve subject of mining claim application

prov hdg amd 2013 No. 10 s 106(1)
s 124 amd 2013 No. 10 s 106(2)–(6)

Variation of access to mining claim area

prov hdg amd 2012 No. 20 s 125 sch 1
s 125 ins 1990 No. 30 s 11
amd 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 10; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 107

CHAPTER 4—EXPLORATION PERMITS

ch hdg (prev pt 5 hdg) sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

PART 1—PRELIMINARY

pt hdg (prev pt 5 div 1 hdg) ins 2013 No. 10 s 47
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Land subject to exploration permit

s 127 amd 2008 No. 33 s 82

Entitlements under exploration permit

s 129 amd 1990 No. 30 s 12; 1995 No. 21 ss 37, 3 sch; 2000 No. 64 s 96; 2012 No. 20 ss 169, 125 sch 1; 2013 No. 10 s 108

PART 2—OBTAINING EXPLORATION PERMIT FOR A MINERAL OTHER THAN COAL

pt hdg (prev pt 5 div 2 hdg) ins 2013 No. 10 s 48
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Application of pt 2

prov hdg amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))
s 130A ins 2013 No. 10 s 48
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Who may apply

s 131 amd 1997 No. 14 s 6
sub 2012 No. 20 s 170
amd 2013 No. 10 s 49

Exclusion of land from area of exploration permit if subject to other authority under Act

prov hdg amd 2012 No. 20 s 125 sch 1
s 132 amd 1999 No. 35 s 24; 2012 No. 20 s 125 sch 1

Application for exploration permit

s 133 amd 1995 No. 21 ss 38, 3 sch; 2000 No. 64 s 97; 2005 No. 8 s 11; 2007 No. 46 s 66; 2008 No. 33 s 83; 2012 No. 20 s 281 sch 2

Minister may request information

prov hdg amd 2008 No. 56 s 31

s 133A ins 2008 No. 33 s 84
amd 2008 No. 56 s 31
om 2012 No. 20 s 171

Priority of applications for grant of exploration permit

s 134A ins 1997 No. 14 s 7
amd 2005 No. 8 s 2 sch; 2012 No. 20 s 281 sch 2

Abandonment of application for exploration permit

s 135 prev s 135 amd 2002 No. 62 s 4
om 2012 No. 20 s 172
pres s 135 (prev s 159) amd 2000 No. 64 s 106; 2005 No. 8 s 19; 2012 No. 20 s 281 sch 2
reloc and renum 2013 No. 10 s 55

Grant of exploration permit on application

s 136 prev om 2008 No. 33 s 85
pres ins 2013 No. 10 s 50
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Obtaining exploration permit by competitive tender

s 136A ins 2013 No. 10 s 50
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

PART 3—OBTAINING EXPLORATION PERMIT FOR COAL

pt hdg (prev pt 5 div 3 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Division 1—Preliminary

div hdg (prev pt 5 div 3 sdiv 1 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Application and operation of pt 3

prov hdg amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

s 136B ins 2013 No. 10 s 50
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Division 2—Competitive tenders

div hdg (prev pt 5 div 3 sdiv 2 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Call for tenders

s 136C ins 2013 No. 10 s 50

Right to tender

s 136D ins 2013 No. 10 s 50

Requirements for making tender

s 136E ins 2013 No. 10 s 50

Right to terminate call for tenders

s 136F ins 2013 No. 10 s 50

Amendment of tender

s 136G ins 2013 No. 10 s 50

Withdrawal of tender

s 136H ins 2013 No. 10 s 50

Division 3—Deciding tenders

div hdg (prev pt 5 div 3 sdiv 3 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Process for deciding tenders

s 136I ins 2013 No. 10 s 50

Provisions for preferred tenderers

s 136J ins 2013 No. 10 s 50

Deciding whether to grant exploration permit

s 136K ins 2013 No. 10 s 50

Notice to unsuccessful tenderers

s 136L ins 2013 No. 10 s 50

Division 4—Obtaining exploration permit following surrender

div hdg (prev pt 5 div 3 sdiv 4 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Application for exploration permit for surrendered exploration permits

s 136M ins 2013 No. 10 s 50

Grant of exploration permit for surrendered exploration permits

s 136N ins 2013 No. 10 s 50

PART 4—OTHER PROVISIONS ABOUT EXPLORATION PERMITS

pt hdg (prev pt 5 div 4 hdg) ins 2013 No. 10 s 50
sub 2012 No. 20 s 290(2) (amd 2013 No. 10 s 156)

Prescribed criteria for grant of exploration permit

s 137 amd 1994 No. 63 s 110(2) sch; 1995 No. 21 s 3 sch; 1999 No. 35 s 25; 2000
No. 64 s 98; 2005 No. 8 s 12; 2008 No. 33 s 86; 2008 No. 56 s 32; 2012
No. 20 ss 54, 281 sch 2
sub 2013 No. 10 s 51
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Content of exploration permit

s 137A ins 2008 No. 33 s 87

Rental payable on exploration permit

- s 138** sub 2005 No. 8 s 13
amd 2008 No. 56 s 33; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 52; 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Periodic reduction in area of exploration permit

- prov hdg** sub 1995 No. 21 s 39(1)
amd 2005 No. 8 s 14(1); 2012 No. 20 s 125 sch 1
- s 139** amd 1995 No. 21 s 39(2)–(3); 2000 No. 64 s 99; 2005 No. 8 s 14(2)–(3); 2012 No. 20 ss 55, 173, 125 sch 1, 281 sch 2

Voluntary reduction in area of exploration permit

- prov hdg** amd 2012 No. 20 s 125 sch 1
- s 140** ins 1995 No. 21 s 40
amd 2000 No. 64 s 100
sub 2005 No. 8 s 15
amd 2012 No. 20 ss 56, 125 sch 1, 281 sch 2

Obligation to consult with particular owners and occupiers

- s 140A** ins 2010 No. 52 s 30

Conditions of exploration permit

- s 141** amd 1990 No. 30 s 13; 1995 No. 21 s 41; 2000 No. 64 ss 101, 174 sch; 2005 No. 8 s 16; 2006 No. 59 s 49; 2008 No. 33 s 88; 2008 No. 56 s 34; 2010 No. 31 s 452; 2012 No. 20 ss 174, 125 sch 1, s 281 sch 2 (amd 2013 No. 10 s 158(1)); 2013 No. 10 s 109

Additional conditions of exploration permit relating to native title

- s 141AA** ins 2003 No. 10 s 33

Consultation and negotiated agreement conditions

- s 141A** ins 1999 No. 35 s 26
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3

Other agreement conditions

- s 141B** ins 1999 No. 35 s 26
amd 2000 No. 36 s 18 sch 1

Application to vary conditions of existing permit

- s 141C** ins 1999 No. 35 s 26
amd 2000 No. 64 s 174 sch; 2008 No. 56 s 35; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 53; 2012 No. 20 s 323 sch 3

Draft guidelines for environmental impact statements

- s 142** ins 1995 No. 21 s 42
om 2000 No. 64 s 102

Guidelines for environmental impact statements

- s 143** ins 1995 No. 21 s 42
om 2000 No. 64 s 102

Provision of security

s 144 amd 1995 No. 21 s 43; 1997 No. 17 s 74 sch; 1999 No. 35 s 27; 2000 No. 64 ss 103, 174 sch; 2005 No. 8 s 17; 2013 No. 10 s 193 sch 1

Compensation

s 145 amd 1990 No. 30 s 14; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch om 2010 No. 31 s 453

Initial term of exploration permit

s 146 amd 2013 No. 10 s 54

Application for renewal of exploration permit

s 147 amd 1995 No. 21 s 3 sch; 1999 No. 35 s 28; 2000 No. 64 ss 104, 174 sch sub 2005 No. 8 s 18
amd 2008 No. 33 s 89

Minister may request information

prov hdg amd 2008 No. 56 s 36

s 147AA ins 2008 No. 33 s 90
amd 2008 No. 56 s 36
om 2012 No. 20 s 175

Decision on application

s 147A ins 2005 No. 8 s 18

Chief executive must give copy of application to EPA administering authority

s 147B ins 2005 No. 8 s 18
om 2012 No. 20 s 281 sch 2

Continuation of permit while application being dealt with

s 147C ins 2005 No. 8 s 18
sub 2008 No. 56 s 38
amd 2012 No. 20 s 176

When term of renewed permit starts

s 147D ins 2005 No. 8 s 18

When new conditions of renewed permit start

s 147E ins 2005 No. 8 s 18

Renewal of permit must be in name of last recorded transferee

prov hdg amd 2012 No. 20 s 177(1)

s 147F ins 2005 No. 8 s 18
amd 2012 No. 20 s 177

Rights and obligations upon application for mining claim, mining lease or mineral development licence

prov hdg amd 2013 No. 10 s 110(1)

s 148 amd 2012 No. 20 s 125 sch 1, s 323 sch 3; 2013 No. 10 s 110(2)–(5)

Correction of instrument of exploration permit

s 149 amd 1995 No. 21 s 44

Assignment of exploration permit

s 151 amd 1995 No. 21 s 45; 2000 No. 64 ss 105, 174 sch; 2008 No. 56 s 39
om 2012 No. 20 s 178

Lodgement of caveat

s 152 amd 1990 No. 30 s 15; 1995 No. 21 s 3 sch
om 2012 No. 20 s 178

Chief executive's functions upon receipt of caveat

s 153 om 2012 No. 20 s 178

Effect of caveat

s 154 amd 1990 No. 30 s 16; 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2007 No.
39 s 41 sch
om 2012 No. 20 s 178

Second caveat not available to same person

s 155 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 178

Removal or withdrawal of caveat

s 156 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 178

Compensation for lodging caveat without reasonable cause

s 157 om 2012 No. 20 s 178

Recording of agreements, arrangements, dealings or interests

s 158 amd 1995 No. 21 s 3 sch; 2001 No. 45 s 29 sch 3
om 2012 No. 20 s 178

Contravention by holder of exploration permit

s 160 amd 1995 No. 21 s 3 sch; 2000 No. 64 ss 107, 174 sch; 2012 No. 20 ss 179,
281 sch 2, s 323 sch 3

Surrender of exploration permit

s 161 amd 1995 No. 21 s 46; 2000 No. 64 s 108; 2012 No. 20 s 125 sch 1, s 281 sch
2; 2012 No. 16 s 78 sch; 2013 No. 10 s 111

Adjustment of rental etc. upon surrender etc. of exploration permit

s 162 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1

Access and compensation provisions—sch 1

s 163 amd 1990 No. 30 s 17
sub 1995 No. 21 s 47
amd 1997 No. 14 s 8; 2005 No. 8 s 2
sub 2010 No. 31 s 454

Term and renewal of notice

s 164 ins 1995 No. 21 s 47
amd 1997 No. 14 s 9; 2005 No. 8 s 2 sch
om 2010 No. 31 s 454

Holder of exploration permit to rehabilitate land

s 165 om 2000 No. 64 s 109

Improvement restoration for exploration permit

prov hdg sub 2000 No. 64 s 110

s 166 ins 1995 No. 21 s 48

amd 2000 No. 64 ss 110, 174 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 112

Production of exploration permit

s 167 amd 2012 No. 20 s 323 sch 3

Mining registrar may call conference in some cases

s 169 sub 1990 No. 30 s 18; 1995 No. 21 s 49

om 2010 No. 31 s 455

Who may attend conference

s 170 ins 1995 No. 21 s 49

om 2010 No. 31 s 455

What happens if someone does not attend

s 171 ins 1995 No. 21 s 49

om 2010 No. 31 s 455

Mining registrar's function at section 169 conference

s 172 ins 1995 No. 21 s 49

om 2010 No. 31 s 455

Agreements and statements at section 169 conference

s 173 ins 1995 No. 21 s 49

om 2010 No. 31 s 455

Land Court may award costs

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

s 174 ins 1995 No. 21 s 49

amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

om 2010 No. 31 s 455

Chief executive may recommend action to ease concerns or other action

prov hdg amd 2003 No. 77 s 99(1); 2013 No. 10 s 193 sch 1

s 175 ins 1995 No. 21 s 49

amd 2003 No. 77 s 99(2)–(4); 2013 No. 10 s 193 sch 1

Discovery of minerals to be reported

s 176 amd 2013 No. 10 s 113

Application to add excluded land to existing permit

s 176A ins 1999 No. 35 s 299

amd 2000 No. 64 s 174 sch; 2012 No. 20 s 323 sch 3

Reduction of area of exploration permit upon grant of mining claim, mineral development licence or mining lease

prov hdg amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 114(1)

s 177 amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 114(2)

CHAPTER 5—MINERAL DEVELOPMENT LICENCES**ch hdg** (prev pt 6 hdg) sub 2012 No. 20 s 291**PART 1—MINERAL DEVELOPMENT LICENCES GENERALLY****pt hdg** ins 2012 No. 20 s 291**Mineral development licence****s 179** amd 2012 No. 20 s 125 sch 1**Obligations and entitlement under mineral development licence****s 181** amd 1990 No. 30 s 19; 1995 No. 21 ss 50, 3 sch; 2000 No. 64 s 111; 2008 No. 33 s 91; 2012 No. 20 s 125 sch 1**Land is excluded from area of mineral development licence if covered by other authority under Act****prov hdg** amd 2012 No. 20 s 125 sch 1**s 182** ins 1995 No. 21 s 51
amd 1999 No. 35 s 30; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1**Application for mineral development licence****s 183** amd 1995 No. 21 ss 52, 3 sch; 1999 No. 35 s 31; 2000 No. 64 ss 112, 174 sch; 2007 No. 46 s 67; 2008 No. 56 s 40; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1**Minister may request information****s 183A** ins 2008 No. 56 s 41
om 2012 No. 20 s 180**Description of mineral development licence****s 184** amd 1995 No. 58 s 4 sch 1; 1999 No. 35 s 32; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1**Minister may grant or refuse application****s 186** amd 1994 No. 63 s 110(2) sch; 1995 No. 21 s 3 sch; 1995 No. 58 s 4 sch 1; 2000 No. 64 s 113; 2005 No. 8 s 2 sch; 2008 No. 33 s 92
sub 2008 No. 56 s 42
amd 2012 No. 20 ss 57, 281 sch 2**Content of mineral development licence****s 186A** ins 2008 No. 33 s 93**Holder to notify owners of land of grant or renewal****prov hdg** amd 2005 No. 8 s 21(1)**s 187** amd 1995 No. 21 s 3 sch; 2005 No. 8 s 21; 2012 No. 20 s 125 sch 1**Upon rejection of application, application fee or part may be retained****s 188** amd 2012 No. 20 s 125 sch 1**Abandonment of application for mineral development licence****s 189** amd 1999 No. 35 s 33; 2000 No. 64 ss 114, 174 sch; 2005 No. 8 s 22; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Endnotes

Provision of security

s 190 amd 1995 No. 21 s 53; 1997 No. 17 s 74 sch; 1999 No. 35 s 34; 2000 No. 64 s 115; 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Compensation

s 191 amd 1990 No. 30 s 20; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2010 No. 31 s 456

Initial term of mineral development licence

s 192 amd 1999 No. 35 s 36

Rental payable on mineral development licence

s 193 amd 1995 No. 21 s 54; 2002 No. 62 s 5; 2005 No. 8 s 2 sch; 2008 No. 56 s 43;
2012 No. 20 ss 181, 323 sch 3

Obligation to consult with particular owners and occupiers

s 193A ins 2010 No. 52 s 31

Conditions of mineral development licence

s 194 amd 1990 No. 30 s 21; 1995 No. 21 s 55; 1998 No. 27 s 4; 2000 No. 64 ss 116,
174 sch; 2005 No. 8 s 23; 2006 No. 59 s 50; 2008 No. 56 s 44; 2010 No. 31
s 457; 2012 No. 20 ss 182, 125 sch 1, s 281 sch 2 (amd 2013 No. 10 s
158(2))

Additional conditions of mineral development licence relating to native title

s 194AAA ins 2003 No. 10 s 34

Consultation and negotiated agreement conditions

s 194AA ins 1999 No. 35 s 36
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3

Other agreement conditions

s 194AB ins 1999 No. 35 s 36
amd 2000 No. 36 s 18 sch 1

Application to vary conditions of existing licence

s 194AC ins 1999 No. 35 s 36
amd 2000 No. 64 s 174 sch; 2008 No. 56 s 45; 2012 No. 20 s 281 sch 2

Land Court's jurisdiction for At Risk agreement

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 194A ins 1998 No. 27 s 5
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Draft guidelines for environmental impact statements

s 195 ins 1995 No. 21 s 56
om 2000 No. 64 s 117

Guidelines for environmental impact statements

s 196 ins 1995 No. 21 s 56
om 2000 No. 64 s 117

Application for renewal of mineral development licence

s 197 amd 1995 No. 21 s 3 sch; 1999 No. 35 s 37; 2000 No. 64 ss 118, 174 sch
sub 2005 No. 8 s 24
amd 2008 No. 56 s 46

Minister may request information

s 197AA ins 2008 No. 56 s 47
om 2012 No. 20 s 183

Decision on application

s 197A ins 2005 No. 8 s 24
amd 2008 No. 56 s 48; 2012 No. 20 s 58

Chief executive must give copy of application to EPA administering authority

s 197B ins 2005 No. 8 s 24
om 2012 No. 20 s 281 sch 2

Continuation of licence while application being dealt with

s 197C ins 2005 No. 8 s 24
sub 2008 No. 56 s 49
amd 2012 No. 20 s 184

When term of renewed licence starts

s 197D ins 2005 No. 8 s 24

When new conditions of renewed licence start

s 197E ins 2005 No. 8 s 24

Renewal of licence must be in name of last recorded transferee

prov hdg amd 2012 No. 20 s 185(1)
s 197F ins 2005 No. 8 s 24; 2012 No. 20 s 185

Assignment or mortgage of mineral development licence

prov hdg sub 2000 No. 64 s 119
s 198 amd 1995 No. 21 s 57; 2000 No. 64 ss 119, 174 sch; 2005 No. 8 s 2 sch; 2008
No. 56 s 50
om 2012 No. 20 s 186

Lodgement of caveat

s 199 amd 1990 No. 30 s 22; 1995 No. 21 s 3 sch
om 2012 No. 20 s 186

Chief executive's functions upon receipt of caveat

s 200 om 2012 No. 20 s 186

Effect of caveat

s 201 amd 1990 No. 30 s 23; 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2007 No.
39 s 41 sch
om 2012 No. 20 s 186

Second caveat not available to same person

s 202 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 186

Removal or withdrawal of caveat

s 203 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 186

Compensation for lodging caveat without reasonable cause

s 204 om 2012 No. 20 s 186

Recording of agreements, arrangements, dealings or interests

s 205 amd 1995 No. 21 s 3 sch; 2001 No. 45 s 29 sch 3
om 2012 No. 20 s 186

Correction of instrument of mineral development licence

s 206 amd 1995 No. 21 s 58; 2012 No. 20 s 125 sch 1

Replacement of instrument of mineral development licence

s 207 amd 2012 No. 20 s 281 sch 2

Adding other minerals to licence

s 208 ins 1995 No. 21 s 59
amd 1999 No. 35 s 38; 2000 No. 64 s 120; 2008 No. 33 s 94; 2008 No. 56 s
51; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Contravention by holder of mineral development licence

s 209 amd 1995 No. 21 s 3 sch; 2000 No. 64 ss 121, 174 sch; 2008 No. 56 s 52;
2012 No. 20 ss 187, 281 sch 2, s 323 sch 3

Surrender of mineral development licence

s 210 amd 1995 No. 21 ss 60, 3 sch; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 122, 174
sch; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2012 No. 16 s 78 sch

Access and compensation provisions—sch 1

s 211 amd 1990 No. 30 s 24
sub 1995 No. 21 s 61
amd 1997 No. 14 s 10; 2005 No. 8 s 2 sch
sub 2010 No. 31 s 458

Term and renewal of notice

s 212 ins 1995 No. 21 s 61
amd 1997 No. 14 s 11; 2005 No. 8 s 2 sch
om 2010 No. 31 s 458

Holder of mineral development licence to rehabilitate land

s 213 om 2000 No. 64 s 123

Improvement restoration for mineral development licence

prov hdg sub 2000 No. 64 s 124
s 214 ins 1995 No. 21 s 62
amd 2000 No. 64 ss 124, 174 sch; 2012 No. 20 s 125 sch 1

Rights and obligations extended upon application for mining lease

s 215 amd 2012 No. 20 s 125 sch 1

Mining registrar may call conference in some cases

s 217 sub 1990 No. 30 s 25; 1995 No. 21 s 63
om 2010 No. 31 s 459

Who may attend conference

s 218 ins 1995 No. 21 s 63
om 2010 No. 31 s 459

What happens if someone does not attend

s 219 ins 1995 No. 21 s 63
om 2010 No. 31 s 459

Mining registrar's function at section 217 conference

s 220 ins 1995 No. 21 s 63
om 2010 No. 31 s 459

Agreements and statements at section 217 conference

s 221 ins 1995 No. 21 s 63
om 2010 No. 31 s 459

Land Court may award costs

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 222 ins 1995 No. 21 s 63
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2010 No. 31 s 459

Chief executive may recommend action to ease concerns or other action

prov hdg amd 2003 No. 77 s 100(1); 2013 No. 10 s 193 sch 1
s 223 ins 1995 No. 21 s 63
amd 2003 No. 77 s 100(2)–(4); 2013 No. 10 s 193 sch 1

Direction to apply for mining lease

s 225 amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1

Minister may determine availability of certain land

s 226 amd 2000 No. 64 s 174 sch

Application to add excluded land to existing licence

s 226AA ins 1999 No. 35 s 39
amd 2000 No. 64 s 174 sch

Reduction of area of mineral development licence on grant of mining lease

prov hdg amd 2012 No. 20 s 125 sch 1
s 226A ins 1997 No. 14 s 12
amd 2012 No. 20 s 125 sch 1

Effect of termination of mineral development licence

s 228 sub 1995 No. 21 s 64
amd 2012 No. 20 s 125 sch 1

Application may be made for approval to remove plant

s 229 ins 1995 No. 21 s 64; 2005 No. 8 s 2 sch
amd 2012 No. 20 s 125 sch 1

Plant remaining on former mineral development licence may be sold etc.

s 230 ins 1995 No. 21 s 64
amd 1997 No. 14 s 13; 1999 No. 35 s 40; 2000 No. 64 ss 125, 174 sch; 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2010 No. 44 s 122; 2012 No. 20 s 125 sch 1; 2012 No. 16 s 78 sch; 2013 No. 10 s 193 sch 1

Variation of access to mineral development licence area

prov hdg amd 2012 No. 20 s 125 sch 1
s 231 ins 1990 No. 30 s 26
amd 1995 No. 21 s 3 sch; 2005 No. 8 s 2 sch; 2008 No. 56 s 53; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

PART 2—MINERAL DEVELOPMENT LICENCE FOR AURUKUN PROJECT

pt hdg (prev pt 6A hdg) ins 2006 No. 31 s 4
sub 2012 No. 20 s 292

Application of pts 1 and 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 231A ins 2006 No. 31 s 4
amd 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 56; 2012 No. 20 s 323 sch 3

Only eligible person can apply for and hold mineral development licence (180)

s 231B ins 2006 No. 31 s 4
amd 2013 No. 10 s 57; 2012 No. 20 s 323 sch 3

Application for mineral development licence (183)

s 231C ins 2006 No. 31 s 4
amd 2007 No. 46 s 68; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Alternative way of describing mineral development licence (184)

s 231D ins 2006 No. 31 s 4

Minister may grant or reject application for mineral development licence (186)

s 231E ins 2006 No. 31 s 4
amd 2008 No. 56 s 54; 2012 No. 20 s 281 sch 2

Initial term of mineral development licence (192)

s 231F ins 2006 No. 31 s 4

Conditions of mineral development licence (194)

s 231G ins 2006 No. 31 s 4
amd 2008 No. 56 s 55; 2012 No. 20 ss 188, 125 sch 1, s 281 sch 2; 2013 No. 10 s 58

Renewal of licence (197A)

s 231H ins 2006 No. 31 s 4
amd 2008 No. 56 s 56; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 59

Requirements for transferring or mortgaging mineral development licences**prov hdg** amd 2012 No. 20 s 189(1)–(2)**s 231I** ins 2006 No. 31 s 4

amd 2013 No. 10 s 60; 2012 No. 20 ss 189(3)–(5), 323 sch 3

Contravention by holder of mineral development licence (209)**s 231J** ins 2006 No. 31 s 4

amd 2013 No. 10 s 61

Review of decisions**s 231K** ins 2006 No. 31 s 4**CHAPTER 6—MINING LEASES****ch hdg** (prev pt 7 hdg) sub 2012 No. 20 s 293**PART 1—MINING LEASES GENERALLY****pt hdg** ins 2012 No. 20 s 293**Land subject to mining lease****s 232** amd 2008 No. 33 s 95; 2012 No. 20 ss 59, 125 sch 1**Minister may grant mining lease****prov hdg** amd 2012 No. 20 s 190**s 234** amd 1994 No. 63 s 110(2) sch; 2000 No. 64 s 126; 2004 No. 25 s 1013; 2008 No. 56 s 57; 2012 No. 20 ss 190, 125 sch 1, 281 sch 2**General entitlements of holder of mining lease****prov hdg** amd 2004 No. 25 s 1014(1)**s 235** amd 2000 No. 64 ss 127, 174 sch; 2004 No. 25 s 1014(2); 2012 No. 20 ss 190, 125 sch 1, s 323 sch 3**Entitlement to use sand, gravel and rock****s 236** amd 2000 No. 64 s 128; 2012 No. 20 s 125 sch 1, s 323 sch 3**Drilling and other activities on land not included in surface area****s 237** ins 1995 No. 21 s 65

amd 2000 No. 64 ss 129, 174 sch; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Mining lease over surface of restricted land**s 238** sub 1995 No. 21 s 66; 2012 No. 20 s 191

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Restriction on mining leases where land freed from exploration permit**s 239** amd 2002 No. 62 s 6**Marking out land before application for grant of mining lease****s 240** amd 1990 No. 30 s 27**Manner of marking out land proposed to be subject of mining lease****s 241** amd 2000 No. 64 s 174 sch; 2003 No. 71 s 77**Consent of chief executive required to certain marking out of area****prov hdg** amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1**s 242** amd 2013 No. 10 s 193 sch 1

Endnotes

Time for application for grant of mining lease

s 243 amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1

If application for mining lease not made, is rejected or abandoned, posts etc. to be removed

s 244 amd 1995 No. 21 s 3 sch; 2005 No. 8 s 2 sch

Application for grant of mining lease

s 245 amd 1995 No. 21 ss 67, 3 sch; 1997 No. 14 s 14; 2000 No. 64 s 130; 2004 No. 25 s 1015; 2005 No. 8 s 25; 2007 No. 46 s 69; 2008 No. 56 s 19 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3; 2013 No. 10 s 193 sch 1

Mining registrar may request information

s 245A ins 2008 No. 56 s 58
om 2012 No. 20 s 192

Description of mining lease

s 246 amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Lodgement of application where land in more than 1 mining district

s 247 om 2012 No. 20 s 192

Applicant must obtain consent or views of existing authority holders

s 248 ins 1995 No. 21 s 68
amd 1997 No. 14 s 15
sub 2005 No. 8 s 26
amd 2004 No. 12 s 152 (amdt could not be given effect); 2009 No. 16 s 54;
2010 No. 31 s 523; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Later applicant must obtain consent or views of earlier applicant if same land affected

s 249 ins 1995 No. 21 s 68
sub 2005 No. 8 s 26
amd 2009 No. 16 s 55; 2010 No. 31 s 421; 2010 No. 31 s 524; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Rejection of application by chief executive

prov hdg amd 2013 No. 10 s 193 sch 1

s 250 amd 1995 No. 21 s 69; 1999 No. 7 s 87 sch 3; 2000 No. 64 s 131; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Priority of mining lease applications

s 251 sub 2012 No. 20 s 193
amd 2013 No. 10 s 193 sch 1

Certificate of application etc.

s 252 amd 1995 No. 21 ss 70, 3 sch; 1997 No. 14 s 16; 1999 No. 7 s 87 sch 3; 2000 No. 64 s 132; 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1

Issue of certificate of public notice

s 252A ins 2000 No. 64 s 133
amd 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2004 No. 48 s 156; 2005 No. 8 s 2 sch; 2005 No. 53 s 128; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2012 No. 16 s 78 sch; 2013 No. 10 s 193 sch 1

Applicant's obligations for certificate of public notice

s 252B ins 2000 No. 64 s 133
amd 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1

Declaration of compliance with obligations

s 252C ins 2000 No. 64 s 133
amd 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Continuing obligation to notify

s 252D ins 2000 No. 64 s 133
amd 2013 No. 10 s 193 sch 1

Reissue of certificate of public notice

prov hdg amd 2000 No. 64 s 134(1)
s 253 ins 1995 No. 21 s 71
amd 2000 No. 64 s 134(2); 2013 No. 10 s 193 sch 1

Mining registrar may call conference in some cases

s 254 sub 1995 No. 21 s 72
amd 1997 No. 14 s 17; 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch
om 2010 No. 31 s 460

Who may attend conference

s 255 ins 1995 No. 21 s 72
om 2010 No. 31 s 460

What happens if someone does not attend

s 256 ins 1995 No. 21 s 72
om 2010 No. 31 s 460

Mining registrar's function at section 254 conference

s 257 ins 1995 No. 21 s 72
om 2010 No. 31 s 460

Agreements and statements at section 254 conference

s 258 ins 1995 No. 21 s 72
om 2010 No. 31 s 460

Land Court may award costs

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 259 ins 1995 No. 21 s 72
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2010 No. 31 s 460

Objection to application for grant of mining lease

s 260 amd 1990 No. 30 s 28; 1993 No. 50 s 86 sch 3; 1995 No. 21 ss 73, 3 sch; 2000 No. 64 s 135; 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1

Objection may be withdrawn

s 261 prev s 261 sub 1990 No. 30 s 29; 1995 No. 21 s 74
om 2000 No. 64 s 136
pres s 261 ins 2012 No. 20 s 194
amd 2013 No. 10 s 193 sch 1

Draft guidelines for environmental impact statements

s 262 ins 1995 No. 21 s 74
om 2000 No. 64 s 136

Guidelines for environmental impact statements

s 263 ins 1995 No. 21 s 74
om 2000 No. 64 s 136

What happens after environmental impact statement is prepared?

s 264 ins 1995 No. 21 s 74
amd 1999 No. 7 s 87 sch 3
om 2000 No. 64 s 136

Referral of application and objections to Land Court

prov hdg amd 2007 No. 39 s 41 sch
s 265 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 137
sub 2005 No. 8 s 27
amd 2007 No. 39 s 41 sch; 2010 No. 17 s 50; 2012 No. 20 ss 195, 125 sch 1;
2012 No. 16 s 78 sch (amd 2013 No. 10 s 21(4)); 2013 No. 10 s 193 sch 1

Chief executive may recommend rejection of application for noncompliance

prov hdg amd 2013 No. 10 s 193 sch 1
s 266 amd 2000 No. 64 s 174 sch; 2013 No. 10 s 193 sch 1

Minister may reject application at any time

s 267 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 138; 2007 No. 39 s 41 sch; 2012
No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Hearing of application for grant of mining lease

s 268 amd 1990 No. 30 s 30; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 139, 174 sch;
2007 No. 39 s 41 sch; 2010 No. 17 s 48 sch; 2013 No. 10 s 193 sch 1

Land Court's recommendation on hearing

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 269 amd 1990 No. 30 s 31; 1995 No. 21 s 75; 1999 No. 7 s 87 sch 3; 2004 No. 25
s 1016; 2005 No. 8 s 28; 2007 No. 39 s 41 sch; 2009 No. 16 s 56; 2012 No.
20 s 196

Procedure where no objections lodged

s 270 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2010 No. 17 s 51

Minister to approve environmental management overview strategy

s 270A ins 1997 No. 14 s 18
om 2000 No. 64 s 140

Criteria for deciding mining lease application

- s 271** amd 1999 No. 7 s 87 sch 3; 1998 No. 38 s 9 (amd 1999 No. 35 s 55); 1999 No. 35 s 41; 2000 No. 36 s 18 sch 1; 2000 No. 64 s 141; 2004 No. 25 s 1017; 2007 No. 39 s 41 sch
sub 2010 No. 17 s 52
amd 2012 No. 20 s 60
sub 2012 No. 20 s 197
amd 2012 No. 20 s 323 sch 3

Deciding mining lease application

- s 271A** ins 2012 No. 20 s 197
amd 2013 No. 10 s 193 sch 1

Steps to be taken after application decided

- s 271B** ins 2012 No. 20 s 197

Minister may remit to Land Court for additional evidence

- prov hdg** amd 1999 No. 6 s 87 sch 3; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 272 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 142
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amd 2007 No. 39 s 41 sch; 2010 No. 17 s 48 sch; 2012 No. 20 s 281 sch 2;
2013 No. 10 s 193 sch 1

Holder of a mining lease to mark boundary posts

- s 274** amd 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1

Application for inclusion of surface of area of mining lease

- prov hdg** amd 2012 No. 20 s 125 sch 1
s 275 amd 2000 No. 64 s 143; 2012 No. 20 s 125 sch 1, s 281 sch 2

General conditions of mining lease

- prov hdg** amd 2004 No. 25 s 1018
s 276 amd 1990 No. 30 s 32; 1995 No. 21 s 76; 1998 No. 27 s 6; 2000 No. 64 ss 144, 174 sch; 2001 No. 46 s 29; 2005 No. 8 s 30; 2006 No. 59 s 51; 2008 No. 56 s 59; 2012 No. 20 ss 198, 125 sch 1

Consultation and negotiated agreement conditions

- s 276A** ins 1999 No. 35 s 42
amd 2000 No. 36 s 18 sch 1
amd 2012 No. 20 s 323 sch 3

Other agreement conditions

- s 276B** ins 1999 No. 35 s 42
amd 2000 No. 36 s 18 sch 1

Provision of security

- s 277** amd 1995 No. 21 s 77; 1997 No. 17 s 74 sch; 2000 No. 64 ss 145, 174 sch

Land Court's jurisdiction for At Risk agreement

- prov hdg** amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 278A ins 1998 No. 27 s 7
amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Compensation to be settled before grant or renewal of mining lease

prov hdg amd 2005 No. 8 s 2 sch
s 279 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2010 No. 17 s 53; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Referral to Land Court of issue of compensation if not settled within 3 months after term of lease ends

prov hdg amd 2007 No. 39 s 41 sch
s 279A ins 2005 No. 8 s 31
amd 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Compensation for owner of land where surface area not included

s 280 amd 2012 No. 20 s 281 sch 2

Determination of compensation by Land Court

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 281 amd 1995 No. 21 s 78; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Appeal against Land Court's determination upon compensation

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 32(1)
s 282 amd 1995 No. 21 s 79; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 32(2)–(7); 2013 No. 10 s 193 sch 1

Security for costs of appeal

s 282A ins 2007 No. 39 s 33

Public trustee may act in certain circumstances

s 283 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Agreement to amend compensation

s 283A ins 2000 No. 64 s 146

Review of compensation by Land Court

prov hdg amd 2007 No. 39 s 41 sch
s 283B ins 2000 No. 64 s 146
amd 2007 No. 39 s 41 sch

Initial term of mining lease

s 284 amd 2012 No. 20 s 199

Mining lease may be specified it is not renewable

s 285 amd 2010 No. 17 s 54; 2011 No. 2 s 65; 2012 No. 20 s 200; 2013 No. 10 s 193 sch 1

Application for renewal of mining lease

s 286 amd 1994 No. 18 s 4 (retro); 1995 No. 21 ss 80, 3 sch; 1999 No. 35 s 43; 2000 No. 64 ss 147, 174 sch
sub 2005 No. 8 s 32
amd 2008 No. 33 s 96; 2009 No. 16 s 57; 2013 No. 10 s 193 sch 1

Mining registrar may request information

prov hdg amd 2008 No. 56 s 60
s 286AA ins 2008 No. 33 s 97
amd 2008 No. 56 s 60
om 2012 No. 20 s 201

Decision on application

s 286A ins 2005 No. 8 s 32
amd 2008 No. 56 s 61; 2012 No. 20 ss 61, 202, 125 sch 1, s 323 sch 3

Chief executive must give copy of application and renewed mining lease to EPA administering authority

s 286B ins 2005 No. 8 s 32
sub 2007 No. 46 s 70
om 2012 No. 20 s 281

Continuation of lease while application being dealt with

s 286C ins 2005 No. 8 s 32

When term of renewed lease starts

s 286D ins 2005 No. 8 s 32

When new conditions of renewed lease start

s 286E ins 2005 No. 8 s 32

Renewal of lease must be in name of last recorded transferee

prov hdg amd 2012 No. 20 s 203(1)
s 286F ins 2005 No. 8 s 32; 2012 No. 20 s 203

Notice of rejection of renewal application

s 287 sub 2000 No. 64 s 148
amd 2012 No. 20 s 281 sch 2

Application of s 7.43(5)–(9)

s 7.43A ins 1994 No. 18 s 5
exp 11 May 1994 (see s 7.43A(3))

Holder to notify owner of grant or renewal of mining lease

s 288 ins 1995 No. 21 s 81
amd 2005 No. 8 s 33; 2012 No. 20 s 125 sch 1

Survey

s 7.45 amd 1992 No. 68 s 3 sch 1
om 1995 No. 21 s 82

Chief executive may issue instrument of mining lease

prov hdg amd 2011 No. 2 s 66(1); 2013 No. 10 s 193 sch 1
s 289 amd 1995 No. 21 s 83
sub 2010 No. 17 s 55
amd 2011 No. 2 s 66(2); 2012 No. 20 s 204; 2013 No. 10 s 193 sch 1

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Rental payable on mining lease

s 290 amd 1994 No. 18 s 6 (retro); 1995 No. 21 s 84; 2000 No. 64 s 174 sch; 2002 No. 62 s 7; 2005 No. 8 s 2 sch; 2008 No. 56 s 62; 2009 No. 16 s 58; 2013 No. 10 s 193 sch 1

Application of GST to rents for certain mining leases

s 290A ins 2000 No. 20 s 29 sch 3
amd 2012 No. 20 s 125 sch 1

Plan of operations and environmental audit statement

s 291 sub 1995 No. 21 s 85
amd 1995 No. 58 s 4 sch 1
om 2000 No. 64 s 149

Amendment of plan of operations

s 292 ins 1995 No. 21 s 85
om 2000 No. 64 s 149

Duration of plan of operations

s 293 ins 1995 No. 21 s 85
om 2000 No. 64 s 149

Variation of conditions of mining lease

s 294 amd 1999 No. 35 s 44; 2000 No. 36 s 18 sch 1; 2000 No. 64 ss 150, 174 sch; 2008 No. 56 s 63; 2009 No. 16 s 59; 2011 No. 2 s 67; 2012 No. 20 ss 205, 281 sch 2; 2013 No. 10 s 193 sch 1

Variation of mining lease for accuracy etc.

s 295 amd 1995 No. 21 s 86; 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2011 No. 2 s 68; 2012 No. 20 ss 206, 125 sch 1; 2013 No. 10 s 193 sch 1

Correction of instrument of lease

s 296 amd 2011 No. 2 s 69; 2013 No. 10 s 193 sch 1

Replacement instrument of lease

s 297 amd 2011 No. 2 s 70; 2013 No. 10 s 193 sch 1

Mining other minerals or use for other purposes

s 298 amd 2000 No. 64 s 151; 2004 No. 25 s 1019; 2008 No. 56 s 64; 2012 No. 20 ss 207, 125 sch 1, s 281 sch 2, s 323 sch 3; 2012 No. 16 s 78 sch; 2013 No. 10 s 193 sch 1

Consolidation of mining leases

s 299 amd 1995 No. 21 s 87; 1995 No. 57 s 4 sch 2; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 152, 174 sch; 2007 No. 39 s 41 sch; 2010 No. 17 s 48 sch; 2012 No. 20 ss 208 (amd 2013 No. 10 s 150), s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Assignment, mortgage or sublease of mining lease**prov hdg** sub 2000 No. 64 s 153**s 300** amd 1995 No. 21 s 3 sch; 1995 No. 58 s 4 sch 1; 2000 No. 64 ss 153, 174 sch;
2003 No. 71 s 78; 2005 No. 8 s 2 sch; 2008 No. 56 s 65; 2010 No. 17 s 56;
2011 No. 20 s 170
om 2012 No. 20 s 209**Lodgement of caveat****s 301** amd 1990 No. 30 s 33; 1995 No. 21 s 3 sch
om 2012 No. 20 s 209**Mining registrar's functions upon receipt of caveat****s 302** om 2012 No. 20 s 209**Effect of caveat****s 303** amd 1990 No. 30 s 34; 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2007 No.
39 s 41 sch
om 2012 No. 20 s 209**Second caveat not available to same person****s 304** amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 209**Removal or withdrawal of caveat****s 305** amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
om 2012 No. 20 s 209**Compensation for lodging caveat without reasonable cause****s 306** om 2012 No. 20 s 209**Abandonment of application for the grant of a mining lease****s 307** amd 2000 No. 64 s 154; 2012 No. 20 ss 210, 125 sch 1, 281 sch 2; 2013 No.
10 s 193 sch 1**Contravention by holder of mining lease****s 308** amd 1995 No. 21 s 3 sch; 2000 No. 64 s 155; 2008 No. 56 s 66; 2012 No. 20 s
281 sch 2; 2013 No. 10 s 193 sch 1**Surrender of mining lease****s 309** amd 1990 No. 30 s 35; 1995 No. 21 ss 88, 3 sch; 1995 No. 58 s 4 sch 1; 1999
No. 7 s 87 sch 3; 2000 No. 64 ss 156, 174 sch; 2007 No. 39 s 41 sch; 2010
No. 17 s 57; 2011 No. 2 s 71; 2011 No. 20 s 171; 2012 No. 20 s 125 sch 1,
s 281 sch 2; 2012 No. 16 s 78 sch; 2013 No. 10 s 193 sch 1**Royalties in respect of minerals taken under mining lease****s 311** amd 2012 No. 20 s 323 sch 3**Effect of termination of mining lease****s 312** sub 1995 No. 21 s 89
amd 1995 No. 50 s 3 sch; 2012 No. 20 s 125 sch 1

Application for approval to remove mineral and property

s 313 ins 1995 No. 21 s 89
amd 1995 No. 58 s 4 sch 1; 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Property remaining on former mining lease may be sold

s 314 ins 1995 No. 21 s 89
amd 2000 No. 64 ss 157, 174 sch; 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2010 No. 44 s 123; 2012 No. 16 s 78 sch; 2013 No. 10 s 193 sch 1

Approval of additional activities upon mining lease application

s 315 amd 1995 No. 21 s 90; 1999 No. 35 s 45; 2000 No. 64 ss 158, 174 sch
om 2005 No. 8 s 34

Mining lease for transportation through land

s 316 amd 1990 No. 30 s 36
sub 1995 No. 21 s 91
amd 2005 No. 8 s 35; 2012 No. 20 ss 211, 125 sch 1; 2013 No. 10 s 193 sch 1

Variation of access to mining lease area

prov hdg amd 2012 No. 20 s 125 sch 1
s 317 ins 1990 No. 30 s 37
amd 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 36; 2007 No. 39 s 41 sch; 2008 No. 56 s 67; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 115

Improvement restoration for mining lease

prov hdg sub 2000 No. 64 s 159
s 318 ins 1995 No. 21 s 92
amd 2000 No. 64 s 159; 2012 No. 20 s 125 sch 1

PART 2—MINING LEASE FOR AURUKUN PROJECT

pt hdg (prev pt 7AAA hdg) ins 2006 No. 31 s 5
sub 2012 No. 20 s 294

Application of pts 1 and 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 318AAA ins 2006 No. 31 s 5
amd 2010 No. 17 s 48 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 62; 2012 No. 20 s 323 sch 3

Only eligible person can apply for and hold mining lease (233)

s 318AAB ins 2006 No. 31 s 5
amd 2013 No. 10 s 63; 2012 No. 20 s 323 sch 3

Alternative way of marking out land proposed to be subject of mining lease (241)

s 318AAC ins 2006 No. 31 s 5

Application for grant of mining lease (245)

s 318AAD ins 2006 No. 31 s 5
amd 2012 No. 20 ss 212, 125 sch 1; 2013 No. 10 ss 64, 193 sch 1

Additional matters for application (252)

s 318AAE ins 2006 No. 31 s 5
 amd 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Mining lease must include all surface of land (273)

s 318AAF ins 2006 No. 31 s 5

Holder of a mining lease to mark boundary posts (274)

s 318AAG ins 2006 No. 31 s 5

General conditions of mining lease (276)

s 318AAH ins 2006 No. 31 s 5
 amd 2008 No. 56 s 68; 2012 No. 20 ss 213, 125 sch 1; 2013 No. 10 s 65

Initial term of mining lease (284)

s 318AAI ins 2006 No. 31 s 5
 amd 2012 No. 20 s 214

Renewal of lease (286A)

s 318AAJ ins 2006 No. 31 s 5
 amd 2012 No. 20 s 281 sch 2; 2013 No. 10 s 66

Requirements for transferring, mortgaging or subleasing mining leases

prov hdg amd 2012 No. 20 s 215(1)–(2)

s 318AAK ins 2006 No. 31 s 5
 amd 2013 No. 10 s 67; 2012 No. 20 s 215(3)–(5), s 323 sch 3

Contravention by holder of mining lease (308)

s 318AAL ins 2006 No. 31 s 5
 amd 2013 No. 10 s 68

Limitation on surrender of mining lease (309)

s 318AAM ins 2006 No. 31 s 5
 amd 2013 No. 10 s 69

CHAPTER 7—COMMON PROVISIONS FOR MINING TENEMENTS

ch hdg ins 2012 No. 20 s 295

PART 1—DEALINGS AND TRANSFERS AFFECTING APPLICATIONS FOR MINING LEASES

pt hdg (prev pt 7AAAB hdg) ins 2012 No. 20 s 216
 sub 2012 No. 20 s 295

Division 1—Preliminary

div hdg ins 2012 No. 20 s 216

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prov hdg amd 2012 No. 20 s 323 sch 3
 s 318AAN ins 2012 No. 20 s 216

Definitions for pt 1

prov hdg amd 2012 No. 20 s 323 sch 3
 s 318AAO ins 2012 No. 20 s 216

What is a *dealing* with a mining tenement

s 318AAP ins 2012 No. 20 s 216 (amd 2013 No. 10 s 151(1))

Prohibited dealings

s 318AAQ ins 2012 No. 20 s 216 (amd 2013 No. 10 s 151(2))

Types of transfers

s 318AAR ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

Division 2—Registration generally

div hdg ins 2012 No. 20 s 216

Registration required for all dealings and application transfers

s 318AAS ins 2012 No. 20 s 216

Obtaining registration

s 318AAT ins 2012 No. 20 s 216 (amd 2013 No. 10 s 151(3))

Effect of approval and registration

s 318AAU ins 2012 No. 20 s 216

Division 3—Approval of assessable transfers

div hdg ins 2012 No. 20 s 216

Indicative approval

s 318AAV ins 2012 No. 20 s 216
amd 2013 No. 10 s 116

Applying for approval of assessable transfer

s 318AAW ins 2012 No. 20 s 216
amd 2013 No. 10 s 117

Deciding application

s 318AAX ins 2012 No. 20 s 216
amd 2013 No. 10 s 118

Security may be required

s 318AAY ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

Written notice about decision

s 318AAZ ins 2012 No. 20 s 216
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

PART 2—RECORDING ASSOCIATED AGREEMENTS

pt hdg (prev pt 7AAAC hdg) ins 2012 No. 20 s 216
sub 2012 No. 20 s 296

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prov hdg amd 2012 No. 20 s 323 sch 3
s 318AAZA ins 2012 No. 20 s 216

Definition for pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 318AAZB ins 2012 No. 20 s 216

Recording associated agreements

s 318AAZC ins 2012 No. 20 s 216

Effect of recording associated agreements

s 318AAZD ins 2012 No. 20 s 216

PART 3—CAVEATS

pt hdg (prev pt 7AAAD hdg) ins 2012 No. 20 s 216
sub 2012 No. 20 s 297

Application of pt 3

prov hdg amd 2012 No. 20 s 323 sch 3
s 318AAZE ins 2012 No. 20 s 216

Requirements of caveats

s 318AAZF ins 2012 No. 20 s 216

Lodging of caveat

s 318AAZG ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

Chief executive's functions on receipt of caveat

s 318AAZH ins 2012 No. 20 s 216

Effect of lodging caveat

s 318AAZI ins 2012 No. 20 s 216 (amd 2013 No. 10 s 151(4)–(5))

Lapsing, withdrawal or removal of caveat

s 318AAZJ ins 2012 No. 20 s 216 (amd 2013 No. 10 s 151(6))

Further caveat not available to same person

s 318AAZK ins 2012 No. 20 s 216

Compensation for lodging caveat without reasonable cause

s 318AAZL ins 2012 No. 20 s 216

PART 4—APPEALS ABOUT APPROVALS OF ASSESSABLE TRANSFERS

pt hdg (prev pt 7AAAE hdg) ins 2012 No. 20 s 216
sub 2012 No. 20 s 298

Who may appeal

s 318AAZM ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

Period to appeal

s 318AAZN ins 2012 No. 20 s 216

Starting appeal

s 318AAZO ins 2012 No. 20 s 216

Stay of operation of decision

s 318AAZP ins 2012 No. 20 s 216

Hearing procedures

s 318AAZQ ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

Land Court's powers on appeal

s 318AAZR ins 2012 No. 20 s 216
amd 2013 No. 10 s 193 sch 1

CHAPTER 8—PROVISIONS FOR COAL SEAM GAS

ch hdg (prev pt 7AA hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

PART 1—PRELIMINARY

pt hdg (prev pt 7AA div 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Division 1—Introduction

div hdg (prev pt 7AA div 1 sdiv 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Main purposes of ch 8

prov hdg amd 2012 No. 20 s 323 sch 3
s 318A ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

How main purposes are to be achieved

s 318AA ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Relationship with chs 4–6 and ch 7, pt 1

prov hdg amd 2012 No. 20 s 217(1), s 323 sch 3
s 318AB ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)
amd 2012 No. 20 s 217(2)–(4), s 323 sch 3

Division 2—Definitions for chapter 8

div hdg (prev pt 7AA div 1 sdiv 2 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

What is *coal seam gas* and *incidental coal seam gas*

s 318AC ins 2004 No. 25 s 1020

What is *oil shale*

s 318AD ins 2004 No. 25 s 1020

What is a *coal exploration tenement*, a *coal mining lease* and a *special coal mining lease*

s 318AE ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

What is an *oil shale exploration tenement* and an *oil shale mining lease*

s 318AF ins 2004 No. 25 s 1020

What is a *coal or oil shale mining tenement*

s 318AG ins 2004 No. 25 s 1020

What is a *development plan and its plan period*

s 318AH ins 2004 No. 25 s 1020
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Petroleum tenures

s 318AI ins 2004 No. 25 s 1020

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s 318AJ ins 2004 No. 25 s 1020

What is *the public interest*

s 318AK ins 2004 No. 25 s 1020

Division 3—Relationship with particular special agreement Acts

div hdg (prev pt 7AA div 1 sdiv 3 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of ch 8 to grant of special coal mining lease under Central Queensland Coal Associates Agreement Act 1968

prov hdg amd 2012 No. 20 s 323 sch 3

s 318AL ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

Chapter prevails over special agreement Acts

prov hdg amd 2012 No. 20 s 323 sch 3

s 318AM ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

No compensation

s 318AN ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

PART 2—OBTAINING COAL OR OIL SHALE MINING LEASE OVER LAND IN AREA OF AUTHORITY TO PROSPECT (OTHER THAN BY OR JOINTLY WITH, OR WITH THE CONSENT OF, AUTHORITY TO PROSPECT HOLDER)

pt hdg (prev pt 7AA div 2 hdg) ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch
sub 2012 No. 20 s 299(2)

Division 1—Preliminary

div hdg (prev pt 7AA div 2 sdiv 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of pt 2

prov hdg amd 2012 No. 20 s 323 sch 3

s 318AO ins 2004 No. 25 s 1020
amd 2008 No. 56 s 19 sch; 2011 No. 20 s 155; 2012 No. 20 s 323 sch 3

Division 2—Provisions for making coal or oil shale mining lease application

div hdg (prev pt 7AA div 2 sdiv 2 hdg) ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch
sub 2012 No. 20 s 299(2)

Additional requirements for making application

s 318AP ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(2)–(3))
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Division 3—Provisions for applications in particular circumstances

div hdg (prev pt 7AA div 2 sdiv 3 hdg) ins 2004 No. 25 s 1020
amd 2007 No. 46 s 71; 2011 No. 20 s 156
sub 2012 No. 20 s 299(2)

Applications relating to authority to prospect and petroleum lease not held by same person

prov hdg sub 2007 No. 46 s 72(1); 2011 No. 20 s 157(1)

s 318AQ ins 2004 No. 25 s 1020
amd 2007 No. 46 s 72 (2)–(4); 2011 No. 20 s 157(2)–(4); 2012 No. 20 s 323
sch 3

Applications relating to other land

prov hdg sub 2007 No. 46 s 73(1); 2011 No. 20 s 158(1)

s 318AR ins 2004 No. 25 s 1020
amd 2007 No. 46 s 73(2)–(4); 2011 No. 20 s 158(2)–(3); 2012 No. 20 s 323
sch 3

Power to split application at applicant's request

s 318AS ins 2004 No. 25 s 1020
om 2007 No. 46 s 74

Division 4—Obligations of applicant and authority to prospect holder

div hdg (prev pt 7AA div 2 sdiv 4 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Applicant's obligations

s 318AT ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)
amd 2007 No. 46 s 75; 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3

Minister may require further negotiation

s 318AU ins 2004 No. 25 s 1020

Consequence of applicant not complying with obligations or requirement

s 318AV ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Authority to prospect holder's obligations

s 318AW ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(4))

Submissions by authority to prospect holder

s 318AX ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3

Division 5—Priority for earlier petroleum lease application or proposed application

div hdg (prev pt 7AA div 2 sdiv 5 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Earlier petroleum lease application

s 318AY ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

Proposed petroleum lease for which EIS approval given

s 318AZ ins 2004 No. 25 s 1020

Proposed petroleum lease declared a coordinated project

prov hdg amd 2012 No. 43 s 325 sch 2
s 318B ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1; 2012 No. 43 s 325 sch 2

Division 6—Ministerial decision about whether to give any preference to petroleum development

div hdg (prev pt 7AA div 2 sdiv 6 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

When preference decision is required

s 318BA ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(5))
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Decision about whether to give any preference to petroleum development

s 318BB ins 2004 No. 25 s 1020
amd 2012 No. 20 s 281 sch 2

Reference to Land Court before making preference decision

prov hdg amd 2007 No. 39 s 41 sch
s 318BC ins 2004 No. 25 s 1020
amd 2007 No. 39 s 41 sch

Restrictions on giving preference

s 318BD ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(6))

Division 7—Process if preference decision is to give any preference to petroleum development

div hdg (prev pt 7AA div 2 sdiv 7 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of div 7

prov hdg amd 2012 No. 20 s 323 sch 3
s 318BF ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

Notice to applicant and authority to prospect holder

318BG ins 2004 No. 25 s 1020

Petroleum lease application for all of the land

s 318BH ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

Petroleum lease application for part of the land

s 318BI ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

No petroleum lease application

s 318BJ ins 2004 No. 25 s 1020

Division 8—Deciding mining lease

div hdg (prev pt 7AA div 2 sdiv 8 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of div 8

prov hdg amd 2012 No. 20 s 323 sch 3
s 318BK ins 2004 No. 25 s 1020
amd 2008 No. 33 s 98; 2012 No. 20 s 281 sch 2, s 323 sch 3

Additional criteria for deciding conditions or term

prov hdg amd 2012 No. 20 s 281 sch 2
s 318BL ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(8)–(9))
amd 2012 No. 20 s 281 sch 2

Power to determine relinquishment condition

s 318BM ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 281 sch 2

Publication of outcome of application

s 318BN ins 2004 No. 25 s 1020
amd 2012 No. 20 s 218

**PART 3—OBTAINING COAL OR OIL SHALE MINING LEASE OVER LAND IN
AREA OF AUTHORITY TO PROSPECT (BY OR JOINTLY WITH, OR
WITH THE CONSENT OF, AUTHORITY TO PROSPECT HOLDER)**

pt hdg (prev pt 7AA div 3 hdg) ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch
sub 2012 No. 20 s 299(2)

Application of pt 3

prov hdg amd 2012 No. 20 s 323 sch 3
s 318BO ins 2004 No. 25 s 1020
amd 2011 No. 20 s 159; 2012 No. 20 s 323 sch 3

Additional requirements for making application

s 318BP ins 2004 No. 25 s 1020

**Applications relating to petroleum lease and authority to prospect not held by same
person**

prov hdg sub 2007 No. 46 s 76(1); 2011 No. 20 s 160(1)
s 318BQ ins 2004 No. 25 s 1020
amd 2007 No. 46 s 76(2)–(5); 2011 No. 20 s 160(2)–(4); 2012 No. 20 s 323
sch 3

Applications relating to other land

prov hdg sub 2007 No. 46 s 77(1); 2011 No. 20 s 161(1)

s 318BR ins 2004 No. 25 s 1020

amd 2007 No. 46 s 77(2)–(4); 2011 No. 20 s 161(2)–(3); 2012 No. 20 s 323 sch 3

Power to split application at applicant's request

s 318BS ins 2004 No. 25 s 1020

om 2007 No. 46 s 78

Priority for earlier petroleum lease application or proposed application

s 318BT ins 2004 No. 25 s 1020

amd 2012 No. 20 s 323 sch 3

Additional criteria for deciding conditions or term

prov hdg amd 2012 No. 20 s 281 sch 2

s 318BU ins 2004 No. 25 s 1020

amd 2012 No. 20 s 281 sch 2

**PART 4—COAL MINING LEASE AND OIL SHALE MINING LEASE
APPLICATIONS IN RESPONSE TO PETROLEUM AND GAS
(PRODUCTION AND SAFETY) ACT PREFERENCE DECISION**

pt hdg (prev pt 7AA div 4 hdg) ins 2004 No. 25 s 1020

sub 2012 No. 20 s 299(2)

Additional ground for refusing application

s 318BV ins 2004 No. 25 s 1020

amd 2005 No. 3 s 105 sch; 2012 No. 20 s 125 sch 1, s 323 sch 3

**PART 5—OBTAINING COAL OR OIL SHALE MINING LEASE OVER LAND IN
AREA OF PETROLEUM LEASE (OTHER THAN BY OR JOINTLY
WITH PETROLEUM LEASE HOLDER)**

pt hdg (prev pt 7AA div 5 hdg) ins 2004 No. 25 s 1020

amd 2005 No. 3 s 105 sch

sub 2012 No. 20 s 299(2)

Application of pt 5

prov hdg amd 2012 No. 20 s 323 sch 3

s 318BW ins 2004 No. 25 s 1020

amd 2011 No. 20 s 162; 2012 No. 20 s 323 sch 3

Additional requirements for making application

s 318BX ins 2004 No. 25 s 1020

amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Applications relating to other land

prov hdg sub 2011 No. 20 s 163(1)

s 318BY ins 2004 No. 25 s 1020

sub 2007 No. 46 s 79

amd 2011 No. 20 s 163(2)–(3); 2012 No. 20 s 323 sch 3

Power to split application at applicant's request

s 318BZ ins 2004 No. 25 s 1020
om 2007 No. 46 s 79

Notice to petroleum lease holder

s 318C ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Petroleum lease holder's obligation to negotiate

s 318CA ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Restriction on issuing certificate of public notice and additional requirements for grant

s 318CB ins 2004 No. 25 s 1020
amd 2007 No. 46 s 80; 2012 No. 20 s 281 sch 2

PART 6—OBTAINING COAL OR OIL SHALE MINING LEASE OVER LAND IN AREA OF PETROLEUM LEASE (BY OR JOINTLY WITH PETROLEUM LEASE HOLDER)

pt hdg (prev pt 7AA div 6 hdg) ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch
sub 2012 No. 20 s 299(2)

Application of pt 6

prov hdg amd 2012 No. 20 s 323 sch 3
s 318CC ins 2004 No. 25 s 1020
amd 2011 No. 20 s 164; 2012 No. 20 s 323 sch 3

Additional requirements for making application

s 318CD ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Applications relating to other land

prov hdg sub 2011 No. 20 s 165(1)
s 318CE ins 2004 No. 25 s 1020
sub 2007 No. 46 s 81
amd 2011 No. 20 s 165(2)–(3); 2012 No. 20 s 323 sch 3

Power to split application at applicant's request

s 318CF ins 2004 No. 25 s 1020
om 2007 No. 46 s 81

Additional criteria for deciding conditions

prov hdg amd 2012 No. 20 s 281 sch 2
s 318CG ins 2004 No. 25 s 1020
amd 2012 No. 20 s 281 sch 2

PART 7—ADDITIONAL PROVISIONS FOR COAL AND OIL SHALE EXPLORATION TENEMENTS

pt hdg (prev pt 7AA div 7 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Division 1—Grant of coal or oil shale exploration tenement in area of authority to prospect

div hdg (prev pt 7AA div 7 sdiv 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Provisions for coal or oil shale exploration tenement

s 318CH ins 2004 No. 25 s 1020
amd 2008 No. 56 s 19 sch

Division 2—Restriction on authorised activities on petroleum lease land

div hdg (prev pt 7AA div 7 sdiv 2 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Restriction

s 318CI ins 2004 No. 25 s 1020
amd 2012 No. 20 s 219

Division 3—Conditions

div hdg (prev pt 7AA div 7 sdiv 3 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Notice of grant to authority to prospect holder or applicant

s 318CJ ins 2004 No. 25 s 1020

Compliance with obligations under Petroleum and Gas (Production and Safety) Act

s 318CK ins 2004 No. 25 s 1020

PART 8—ADDITIONAL PROVISIONS FOR COAL MINING LEASES AND OIL SHALE MINING LEASES

pt hdg (prev pt 7AA div 8 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Division 1—Entitlement to coal seam gas

div hdg (prev pt 7AA div 8 sdiv 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of pt 8

prov hdg amd 2012 No. 20 s 323 sch 3
s 318CL ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Limited entitlement to mine coal seam gas

s 318CM ins 2004 No. 25 s 1020

Use that may be made under mining lease of incidental coal seam gas

s 318CN ins 2004 No. 25 s 1020
amd 2005 No. 3 s 4; 2008 No. 56 s 69; 2012 No. 20 s 125 sch 1

Restriction on flaring or venting of incidental coal seam gas

s 318CO ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(10))
amd 2008 No. 56 s 70; 2012 No. 20 s 125 sch 1

Division 2—Provisions for mining coal seam gas from coextensive natural underground reservoirs

div hdg (prev pt 7AA div 8 sdiv 2 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of div 2

prov hdg amd 2012 No. 20 s 323 sch 3

s 318CP ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(11))
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Coordination arrangement may be made about mining or production from reservoir

s 318CQ ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

Restriction on carrying out particular authorised activities

s 318CR ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(12)–(14))
amd 2007 No. 39 s 41 sch

Dispute resolution by Land Court

prov hdg amd 2007 No. 39 s 41 sch

s 318CS ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(15)–(17))
amd 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1

Division 3—Conditions

div hdg (prev pt 7AA div 8 sdiv 3 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Continuing requirement for coordination arrangement for particular coal or oil shale mining leases

s 318CT ins 2004 No. 25 s 1020

Obligation to measure and record coal seam gas mined

s 318CU ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch; 2007 No. 46 s 82; 2012 No. 20 s 125 sch 1

Obligation to lodge annual reports

s 318CV ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(18)–(22))
amd 2005 No. 3 s 105 sch; 2007 No. 46 s 83; 2012 No. 20 s 125 sch 1, s 281
sch 2

Compliance with obligation to negotiate with petroleum lease applicant

s 318CW ins 2004 No. 25 s 1020

Relinquishment report

s 318CX ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(23))

Surrender report

s 318CY ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(24))

Cessation of relinquishment condition for area not overlapping with area of authority to prospect

prov hdg amd 2012 No. 20 s 125 sch 1

s 318CZ ins 2004 No. 25 s 1020

Division 4—Amendment of relinquishment condition by application

div hdg (prev pt 7AA div 8 sdiv 4 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of div 4

prov hdg amd 2012 No. 20 s 323 sch 3
s 318D ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

Conditions for applying to amend relinquishment condition

s 318DA ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)

Authority to prospect holder's obligation to negotiate

s 318DB ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Requirements for making application

s 318DC ins 2004 No. 25 s 1020
amd 2012 No. 20 s 281 sch 2

Notice of application

s 318DD ins 2004 No. 25 s 1020

Submissions by authority to prospect holder

s 318DE ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3

Minister may require further negotiation

s 318DF ins 2004 No. 25 s 1020

Deciding amendment application

s 318DG ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(25))
amd 2012 No. 20 s 323 sch 3

Division 5—Restriction on amending other conditions

div hdg (prev pt 7AA div 8 sdiv 5 hdg) ins 2004 No. 25 s 1020
amd 2012 No. 20 s 281 sch 2
sub 2012 No. 20 s 299(2)

Interests of relevant petroleum tenure holder to be considered

s 318DH ins 2004 No. 25 s 1020
amd 2012 No. 20 s 281 sch 2

Division 6—Renewals

div hdg (prev pt 7AA div 8 sdiv 6 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

General additional provisions for renewal application

s 318DI ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(26))
amd 2008 No. 56 s 19 sch; 2012 No. 20 s 125 sch 1

Applied provisions for renewal application

s 318DJ ins 2004 No. 25 s 1020
amd 2007 No. 46 s 84; 2008 No. 56 s 19 sch; 2012 No. 20 s 323 sch 3

Mining lease taken to have development plan until renewal application decided

s 318DK ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Division 7—Consolidations

div hdg (prev pt 7AA div 8 sdiv 7 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Restriction on consolidation applications

s 318DL ins 2004 No. 25 s 1020

Additional requirements for making consolidation application

s 318DM ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(27))
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Deciding whether to approve proposed development plan

s 318DN ins 2004 No. 25 s 1020

Division 8—Restriction on transfer or subletting

div hdg (prev pt 7AA div 8 sdiv 8 hdg) ins 2004 No. 25 s 1020
amd 2012 No. 20 s 220
sub 2012 No. 20 s 299(2)

Requirement for coordination arrangement to transfer or sublet mining lease in area of petroleum lease

prov hdg amd 2012 No. 20 s 221(1)
s 318DO ins 2004 No. 25 s 1020
amd 2012 No. 20 ss 221(2), 125 sch 1

PART 9—DEVELOPMENT PLANS FOR COAL MINING LEASES AND OIL SHALE MINING LEASES

pt hdg (prev pt 7AA div 9 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Division 1—General provisions about development plans

div hdg (prev pt 7AA div 9 sdiv 1 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Function and purpose

s 318DP ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch

Requirement to have development plan

s 318DQ ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch; 2012 No. 20 s 323 sch 3

Obligation to comply with development plan

s 318DR ins 2004 No. 25 s 1020
amd 2005 No. 3 s 105 sch; 2012 No. 20 s 125 sch 1, s 323 sch 3

Division 2—Requirements for proposed initial development plans

div hdg (prev pt 7AA div 9 sdiv 2 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Operation of div 2

prov hdg amd 2012 No. 20 s 323 sch 3

s 318DS ins 2004 No. 25 s 1020

amd 2005 No. 3 s 105 sch; 2012 No. 20 s 125 sch 1, s 323 sch 3

General requirements

s 318DT ins 2004 No. 25 s 1020

Plan period

s 318DU ins 2004 No. 25 s 1020

Statement about interests of relevant petroleum tenure holder

s 318DV ins 2004 No. 25 s 1020

amd 2012 No. 20 s 323 sch 3

Requirement to optimise use of incidental coal seam gas

s 318DW ins 2004 No. 25 s 1020

Consistency with petroleum lease development plan and relevant coordination arrangement

s 318DX ins 2004 No. 25 s 1020

Division 3—Approval of proposed initial development plans

div hdg (prev pt 7AA div 9 sdiv 3 hdg) ins 2004 No. 25 s 1020

sub 2012 No. 20 s 299(2)

Application of div 3

prov hdg amd 2012 No. 20 s 323 sch 3

s 318DY ins 2004 No. 25 s 1020

amd 2012 No. 20 s 323 sch 3

Ministerial approval of proposed plan

s 318DZ ins 2004 No. 25 s 1020

Amendment of proposed plan before approval

s 318E ins 2004 No. 25 s 1020

amd 2012 No. 20 s 281 sch 2

Deciding whether to approve proposed plan

s 318EA ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)

Division 4—Approval of proposed later development plans

div hdg (prev pt 7AA div 9 sdiv 4 hdg) ins 2004 No. 25 s 1020

sub 2012 No. 20 s 299(2)

Obligation to lodge proposed later development plan

s 318EB ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(28)–(29))

amd 2005 No. 3 ss 5, 105 sch; 2007 No. 46 s 85; 2012 No. 20 s 125 sch 1, s 281 sch 2

Consequence of failure to comply with notice to lodge proposed later development plan

s 318EC ins 2004 No. 25 s 1020

amd 2005 No. 3 s 105 sch

Later development plan requirements

s 318ED ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Mining lease taken to have development plan until decision on whether to approve proposed later development plan

s 318EE ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

Criteria for deciding whether to approve proposed plan

s 318EF ins 2004 No. 25 s 1020

Power to require partial surrender application

s 318EG ins 2004 No. 25 s 1020
amd 2008 No. 56 s 19 sch

Steps after, and taking effect of, decision

prov hdg amd 2012 No. 20 s 125 sch 1
s 318EH ins 2004 No. 25 s 1020
amd 2012 No. 20 s 125 sch 1

Division 5—Appeals

div hdg (prev pt 7AA div 9 sdiv 5 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Right of appeal against cancellation, deferral or refusal

s 318EI ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 69(2) sch)
amd 2007 No. 39 s 41 sch; 2008 No. 56 s 19 sch

PART 10—CONFIDENTIALITY OF INFORMATION

pt hdg (prev pt 7AA div 10 hdg) ins 2004 No. 25 s 1020
sub 2012 No. 20 s 299(2)

Application of pt 10

prov hdg amd 2012 No. 20 s 323 sch 3
s 318EJ ins 2004 No. 25 s 1020
amd 2012 No. 20 s 323 sch 3

Confidentiality obligations

s 318EK ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(30)–(31))
amd 2012 No. 20 s 125 sch 1

Civil remedies

s 318EL ins 2004 No. 25 s 1020 (amd 2004 No. 26 s 260(32), 69(2) sch)

CHAPTER 9—PROVISIONS FOR GEOTHERMAL TENURES AND GHG AUTHORITIES

ch hdg (prev pt 7AAC hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

PART 1—PRELIMINARY

pt hdg (prev pt 7AAC div 1 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Relationship with chs 2 to 8 and ch 12, pt 1**prov hdg** amd 2012 No. 20 s 323 sch 3**s 318ELAM** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 323 sch 3

What is an *overlapping authority* (geothermal or GHG)**s 318ELAN** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

General provision about mining tenements for land subject to geothermal tenure or GHG authority**s 318ELAO** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 323 sch 3

PART 2—OBTAINING MINING LEASE IF OVERLAPPING TENURE**pt hdg** (prev pt 7AAC div 2 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Division 1—Preliminary**div hdg** (prev pt 7AAC div 2 sdiv 1 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Application of pt 2**prov hdg** amd 2012 No. 20 s 323 sch 3**s 318ELAP** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 323 sch 3

Division 2—Requirements for application**div hdg** (prev pt 7AAC div 2 sdiv 2 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Requirements for making application**s 318ELAQ** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 323 sch 3

Content requirements for information statement**s 318ELAR** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Division 3—Consultation provisions**div hdg** (prev pt 7AAC div 2 sdiv 3 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Applicant's information obligation**s 318ELAS** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Submissions by overlapping tenure holder

s 318ELAT ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2

Division 4—Resource management decision if overlapping permit

div hdg (prev pt 7AAC div 2 sdiv 4 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Application of div 4

prov hdg amd 2012 No. 20 s 323 sch 3
s 318ELAU ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 323 sch 3

Operation of div 4

prov hdg amd 2012 No. 20 s 323 sch 3
s 318ELAV ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2, s 323 sch 3

Criteria for decision

s 318ELAW ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Restrictions on giving overlapping authority priority

s 318ELAX ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Division 5—Process if resource management decision is to give overlapping authority priority

div hdg (prev pt 7AAC div 2 sdiv 5 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Application of div 5

prov hdg amd 2012 No. 20 s 323 sch 3
s 318ELAY ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 125 sch 1, s 323 sch 3

Notice to applicant and overlapping permit holder

s 318ELAZ ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Overlapping lease application for all of the land

s 318ELBA ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Overlapping lease application for part of the land

s 318ELBB ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

No overlapping lease application

s 318ELBC ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Division 6—Resource management decision not to grant and not to give priority

div hdg (prev pt 7AAC div 2 sdiv 6 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2
sub 2012 No. 20 s 301(2)

Lapsing of application

s 318ELBD ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2, s 323 sch 3

Division 7—Deciding application

sdiv hdg (prev pt 7AAC div 2 sdiv 7 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Application of div 7

prov hdg amd 2012 No. 20 s 323 sch 3
s 318ELBE ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2, s 323 sch 3

Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement

s 318ELBF ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2

Additional criteria for deciding provisions of mining lease

s 318ELBG ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 s 281 sch 2

Publication of outcome of application

s 318ELBH ins 2009 No. 3 s 511
sub 2010 No. 31 s 525
amd 2012 No. 20 ss 223, 323 sch 3

PART 3—PRIORITY TO PARTICULAR GEOTHERMAL OR GHG LEASE APPLICATIONS

pt hdg (prev pt 7AAC div 3 hdg) ins 2009 No. 3 s 511
sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Earlier geothermal or GHG lease application

s 318ELBI ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Proposed geothermal or GHG lease for which EIS approval given

s 318ELBJ ins 2009 No. 3 s 511
sub 2010 No. 31 s 525

Proposed GHG lease declared a coordinated project

prov hdg amd 2012 No. 43 s 325 sch 2

s 318ELBK ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 125 sch 1; 2012 No. 43 s 325 sch 2

**PART 4—MINING LEASE APPLICATIONS IN RESPONSE TO INVITATION
UNDER GEOTHERMAL ACT OR GHG STORAGE ACT**

pt hdg (prev pt 7AAC div 4 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Application of pt 4

prov hdg amd 2012 No. 20 s 323 sch 3

s 318ELBL ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 323 sch 3

Minister may refuse application

s 318ELBM ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 224

amd 2012 No. 20 s 323 sch 3

**PART 5—ADDITIONAL PROVISIONS FOR PARTICULAR MINING
TENEMENTS**

pt hdg (prev pt 7AAC div 5 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Division 1—Restrictions on authorised activities for particular mining tenements

div hdg (prev pt 7AAC div 5 sdiv 1 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

Prospecting permit overlapping with geothermal or GHG lease

s 318ELBN ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 281 sch 2

Other overlapping authorities

s 318ELBO ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Resolving disputes

s 318ELBP ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Division 2—Provisions about conditions

div hdg (prev pt 7AAC div 5 sdiv 2 hdg) ins 2009 No. 3 s 511

sub 2010 No. 31 s 525; 2012 No. 20 s 301(2)

**Notice by particular mining tenement holders to particular geothermal tenure or
GHG authority holders or applicants**

s 318ELBQ ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Restriction on varying conditions of particular mining leases**prov hdg** amd 2012 No. 20 s 281 sch 2**s 318ELBR** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 281 sch 2

Condition to notify particular authority holders of proposed start of designated activities**s 318ELBS** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

Requirement to continue geothermal or GHG coordination arrangement after renewal of or dealing with mining lease**s 318ELBT** ins 2009 No. 3 s 511

sub 2010 No. 31 s 525

amd 2012 No. 20 s 225

Requirement to continue GHG coordination arrangement after renewal of or dealing with mining lease**s 318ELBU** ins 2009 No. 3 s 511

om 2010 No. 31 s 525

CHAPTER 10—ROADS**ch hdg** (prev pt 7A hdg) ins 2002 No. 63 s 4

sub 2012 No. 20 s 302(2)

PART 1—PRELIMINARY**pt hdg** (prev pt 7A div 1 hdg) sub 2012 No. 20 s 302(2)**Coordinated projects excluded from ch 10****prov hdg** amd 2012 No. 43 s 325 sch 2; amd 2012 No. 20 s 323 sch 3**s 318EM** (prev s 318A) ins 2002 No. 63 s 4

renum 2004 No. 25 s 1021

amd 2012 No. 43 s 325 sch 2; 2012 No. 20 s 323 sch 3

What is the road authority for a road**s 318EN** (prev s 318B) ins 2002 No. 63 s 4

renum 2004 No. 25 s 1021

What is a notifiable road use**s 318EO** (prev s 318C) ins 2002 No. 63 s 4

renum 2004 No. 25 s 1021

amd 2004 No. 25 s 1022; 2012 No. 20 s 125 sch 1

PART 2—NOTIFIABLE ROAD USES**pt hdg** (prev pt 7A div 2 hdg) sub 2012 No. 20 s 302(2)**Notice of notifiable road use****s 318EP** (prev s 318D) ins 2002 No. 63 s 4

renum 2004 No. 26 s 1021

amd 2012 No. 20 s 125 sch 1

Endnotes

Directions about notifiable road use

s 318EQ (prev s 318E) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2007 No. 39 s 41 sch

Obligation to comply with road use directions

s 318ER (prev s 318F) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021

PART 3—COMPENSATION FOR NOTIFIABLE ROAD USES

pt hdg (prev pt 7A div 3 hdg) sub 2012 No. 20 s 302(2)

Liability to compensate road authority

s 318ES (prev s 318G) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2004 No. 25 s 1023

Compensation agreement

s 318ET (prev s 318H) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021

Deciding compensation through Land Court

prov hdg amd 2007 No. 39 s 41 sch
s 318EU (prev s 318I) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2007 No. 39 s 41 sch

Criteria for decision

s 318EV (prev s 318J) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2007 No. 39 s 41 sch; 2009 No. 17 s 331 sch 1

Land Court review of compensation

prov hdg amd 2007 No. 39 s 41 sch
s 318EW (prev s 318K) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2004 No. 25 s 1024; 2007 No. 39 s 41 sch

Compensation to be addressed before carrying out notifiable road use

s 318EX (prev s 318L) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021

Compensation not affected by change in administration or holder

s 318EY (prev s 318M) ins 2002 No. 63 s 4
renum 2004 No. 25 s 1021
amd 2004 No. 25 s 1025; 2012 No. 20 s 323 sch 3

PART 8—RELATIONSHIP WITH SUSTAINABLE PLANNING ACT 2009

pt hdg amd 1993 No. 70 s 804 sch
sub 2005 No. 8 s 37
amd 2009 No. 36 s 872 sch 2
om 2012 No. 20 s 303

CHAPTER 11—ROYALTIES**ch hdg** (prev pt 9 hdg) sub 2012 No. 20 s 306(2)**PART 1—PAYMENT OF ROYALTY****pt hdg** (prev pt 9 div 1 hdg) ins 2011 No. 20 s 172
sub 2012 No. 20 s 306(2)**Royalty return and payment****s 320** amd 1995 No. 50 s 3 sch; 2012 No. 20 s 125 sch 1, s 323 sch 3**Prescription of royalty****s 321** amd 1995 No. 21 s 3 sch**Regulation may impose civil penalties****s 321A** ins 2012 No. 25 s 148**Minister may request audit****s 322** amd 1995 No. 21 s 3 sch; 2005 No. 8 s 38; 2009 No. 9 s 136 sch 1; 2012 No. 20 s 323 sch 3**Utilisation of security deposit towards royalty payments****s 324** amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1**Royalty return and payment upon transfer or surrender of mining claim or mining lease****prov hdg** amd 2012 No. 20 s 226(1)**s 325** amd 2011 No. 20 s 173; 2012 No. 20 s 226(2)–(3)**PART 2—RECORDS AND INFORMATION****pt hdg** (prev pt 9 div 2 hdg) ins 2011 No. 20 s 174
sub 2012 No. 20 s 306(2)**Maintenance of records****s 326** amd 2012 No. 20 s 323 sch 3**Minister may require information****s 327** amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1**Minister may require royalty estimate****s 327A** ins 2011 No. 2 s 72**Offence not to comply with s 327****s 328** amd 1999 No. 7 s 87 sch 3**PART 3—REASSESSMENT AND ENFORCEMENT****pt hdg** (prev pt 9 div 3 hdg) ins 2011 No. 20 s 175
sub 2012 No. 20 s 306(2)**Unpaid royalty interest****s 332** sub 2012 No. 25 s 149
amd 2012 No. 20 s 323 sch 3 (om 2013 No. 20 s 159(1))**Application of payments****s 332A** ins 2012 No. 25 s 149

Recovery of unpaid amounts

- s 333** amd 1999 No. 7 s 87 sch 3
 sub 2012 No. 25 s 149
 amd 2012 No. 20 s 323 sch 3 (om 2013 No. 20 s 159(1))

Furnishing false particulars etc.

- s 334** prev s 334 om 2011 No. 20 s 176
 pres s 334 (prev s 335) renum 2011 No. 20 s 177

PART 4—CONFIDENTIALITY

- pt hdg** (prev pt 9 div 4 hdg) ins 2011 No. 20 s 178
 sub 2012 No. 20 s 306(2)

Definitions for pt 4

- prov hdg** amd 2012 No. 20 s 323 sch 3
s 334A ins 2011 No. 20 s 178
 amd 2012 No. 20 s 323 sch 3

Disclosure of confidential information

- s 334B** ins 2011 No. 20 s 178
 amd 2012 No. 20 s 323 sch 3

Other obligations about disclosure and use of confidential information

- s 334C** ins 2011 No. 20 s 178
 amd 2012 No. 20 s 323 sch 3; 2013 No. 51 s 229 sch 1

Refusal of disclosure of particular information

- s 334D** ins 2011 No. 20 s 178

CHAPTER 12—PROVISIONS ABOUT PARTICULAR AREAS, MATTERS OR MINING TENEMENTS

- ch hdg** ins 2012 No. 20 s 307

PART 1—PROVISIONS FOR McFARLANE OIL SHALE DEPOSIT

- pt hdg** (prev pt 7AAB hdg) ins 2008 No. 56 s 71
 reloc and renum 2012 No. 20 s 300(1)

Division 1—Preliminary

- div hdg** ins 2008 No. 56 s 71
 reloc 2012 No. 20 s 300(1)

Application of pt 1

- prov hdg** amd 2012 No. 20 s 323 sch 3
s 334E (prev s 318ELAA) ins 2008 No. 56 s 71
 amd 2012 No. 20 s 125 sch 1
 reloc and renum 2012 No. 20 s 300

What is an *oil shale mining tenement*

- s 334F** (prev s 318ELAB) ins 2008 No. 56 s 71
 reloc and renum 2012 No. 20 s 300

Relationship with other provisions of this Act

- s 334G** (prev s 318ELAC) ins 2008 No. 56 s 71
 reloc and renum 2012 No. 20 s 300

Division 2—Moratorium provisions

div hdg ins 2008 No. 56 s 71
reloc 2012 No. 20 s 300(1)

Prohibition on granting oil shale mining tenements

s 334H (prev s 318ELAD) ins 2008 No. 56 s 71
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 300

Suspension of oil shale activities

s 334I (prev s 318ELAE) ins 2008 No. 56 s 71
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 300

Access rights for particular activities

s 334J (prev s 318ELAF) ins 2008 No. 56 s 71
reloc and renum 2012 No. 20 s 300

Ministerial power to suspend rental obligation

s 334K (prev s 318ELAG) ins 2008 No. 56 s 71
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 300

Suspension or waiver of reporting obligations

s 334L (prev s 318ELAH) ins 2008 No. 56 s 71
reloc and renum 2012 No. 20 s 300

Suspension or waiver of performance requirements

s 334M (prev s 318ELAI) ins 2008 No. 56 s 71
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 300

Transfers

prov hdg amd 2012 No. 20 s 222(1)
s 334N (prev s 318ELAJ) ins 2008 No. 56 s 71
amd 2012 No. 20 s 222(2)–(4)
reloc and renum 2012 No. 20 s 300
amd 2013 No. 10 s 193 sch 1

Renewals

s 334O (prev s 318ELAK) ins 2008 No. 56 s 71
reloc and renum 2012 No. 20 s 300

Rights and obligations under other Acts not affected

s 334P (prev s 318ELAL) ins 2008 No. 56 s 71
reloc and renum 2012 No. 20 s 300

PART 2—COLLINGWOOD PARK STATE GUARANTEE

pt hdg (prev pt 10AA hdg) ins 2008 No. 56 s 72
reloc and renum 2012 No. 20 s 309(1)

Endnotes

Definitions for pt 2

- prov hdg** amd 2012 No. 20 s 323 sch 3
s 334Q (prev s 381A) ins 2008 No. 56 s 72
reloc and renum 2012 No. 20 s 309
def *affected land* sub 2011 No. 16 s 4
def *Collingwood Park State guarantee or guarantee* amd 2012 No. 20 s 323
sch 3

What is the *Collingwood Park State guarantee*

- s 334R** (prev s 381B) ins 2008 No. 56 s 72
amd 2011 No. 2 s 74; 2011 No. 16 s 5
reloc and renum 2012 No. 20 s 309

Registering guarantee in freehold land register

- s 334S** (prev s 381C) ins 2008 No. 56 s 72
reloc and renum 2012 No. 20 s 309

Removing guarantee from registrar's records

- s 334T** (prev s 381D) ins 2008 No. 56 s 72
reloc and renum 2012 No. 20 s 309

No fee payable

- s 334U** (prev s 381E) ins 2008 No. 56 s 72
reloc and renum 2012 No. 20 s 309

PART 3—WILD RIVER AREAS

- pt hdg** (prev pt 10A hdg) ins 2005 No. 42 s 52 sch 1
reloc and renum 2012 No. 20 s 310(1)

Definitions for pt 3

- prov hdg** amd 2012 No. 20 s 323 sch 3
s 334V (prev s 382) om 1999 No. 7 s 87 sch 3
ins 2005 No. 42 s 52 sch 1
reloc and renum 2012 No. 20 s 310
def *limited hand sampling techniques* amd 2006 No. 59 s 52(3); 2010 No. 53
s 61(3)
def *low impact activity* ins 2006 No. 59 s 52(2)
sub 2010 No. 53 s 61(1)–(2)
amd 2012 No. 20 s 323 sch 3
def *mining tenement* om 2006 No. 59 s 52(1)
def *nominated waterway* ins 2006 No. 59 s 52(2)
def *person* amd 2007 No. 39 s 41 sch; 2012 No. 20 s 323 sch 3; 2013 No. 10 s
193 sch 1
def *proposed wild river area* amd 2006 No. 59 s 52(4)
def *special agreement Act* om 2008 No. 37 s 20
def *specified works* ins 2010 No. 53 s 61(2)
def *wild river area* om 2006 No. 59 s 52(1)
def *wild river declaration* om 2006 No. 59 s 52(1)
def *wild river special floodplain management area* ins 2010 No. 53 s 61(2)

Division 3—Appeals from Wardens Court

- div hdg** om 1999 No. 7 s 87 sch 3

Grant of mining tenements in wild river areas

s 334W (prev s 383) amd 1990 No. 30 s 40; 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3
ins 2005 No. 42 s 52 sch 1
sub 2006 No. 59 s 53
amd 2010 No. 53 s 62; 2012 No. 20 s 125 sch 1; 2012 No. 43 s 325 sch 2
reloc and renum 2012 No. 20 s 310

Renewal of mining tenements in wild river areas

s 334X (prev s 384) amd 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3
ins 2005 No. 42 s 52 sch 1
sub 2006 No. 59 s 53
amd 2010 No. 53 s 63; 2012 No. 20 s 125 sch 1; 2012 No. 43 s 325 sch 2
reloc and renum 2012 No. 20 s 310

Amending applications for mining tenements in wild river areas

s 334Y (prev s 385) om 1999 No. 7 s 87 sch 3
ins 2005 No. 42 s 52 sch 1
reloc and renum 2012 No. 20 s 310
amd 2013 No. 10 s 193 sch 1

Addition of excluded land to mining tenement

s 334Z (prev s 386) amd 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3
ins 2005 No. 42 s 52 sch 1
amd 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3
reloc and renum 2012 No. 20 s 310
amd 2013 No. 10 s 193 sch 1

Addition of wild river area to mining tenement

s 334ZA (prev s 386A) ins 2005 No. 42 s 52 sch 1
amd 2012 No. 20 s 125 sch 1, s 281 sch 2, s 323 sch 3
reloc and renum 2012 No. 20 s 310
amd 2013 No. 10 s 119

PART 4—CHERWELL CREEK PROVISIONS

pt hdg ins 2012 No. 20 s 307

Definitions for pt 4

prov hdg amd 2012 No. 20 s 323 sch 3
s 334ZB (prev s 722A) ins 2003 No. 56 s 3
def *prescribed day* amd 2004 No. 4 s 53C
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
reloc and renum 2012 No. 20 s 316

Renewal of EPC545

s 334ZC (prev s 722B) ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 316

Rejection of particular applications for mining tenements

s 334ZD (prev s 722C) ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 316

Persons who may apply for, or be granted, a mining tenement for land in the area of MDLA364

prov hdg amd 2012 No. 20 s 125 sch 1
s 334ZE (prev s 722D) ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
reloc and renum 2012 No. 20 s 316

Persons who may apply for, or be granted, a mining tenement for particular land in the area of SL12/42239

prov hdg amd 2012 No. 20 s 125 sch 1
s 334ZF (prev s 722E) ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
amd 2012 No. 20 s 125 sch 1
reloc and renum 2012 No. 20 s 316

No consent required for application for mining tenement for particular land

s 334ZG (prev 722EA) ins 2010 No. 31 s 423
amd 2012 No. 20 s 125 sch 1, s 323 sch 3
reloc and renum 2012 No. 20 s 316

Deciding application to add excluded land to EPC 545

s 334ZH (prev s 722EB) ins 2010 No. 31 s 423
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 316

No compensation payable by the State

s 334ZI (prev s 722F) ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)
ins 2008 No. 28 s 3
amd 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 316

Compensation payment by prescribed persons

- s 334ZJ (prev s 722G) ins 2003 No. 56 s 3
exp beginning of 31 December 2004
ins 2008 No. 28 s 3
amd 2010 No. 17 s 48 sch; 2012 No. 20 s 281 sch 2
reloc and renum 2012 No. 20 s 316

PART 5—OTHER PROVISIONS

- pt hdg ins 2012 No. 20 s 307

Validation of granting of mining lease 1978

- s 334ZK (prev s 418A) ins 2002 No. 25 s 21
amd 2012 No. 20 s 125 sch 1
reloc and renum 2012 No. 20 s 313

Validation of inclusion of additional surface area No. 2 in mining lease 4761

- s 334ZL (prev s 418AA) ins 2007 No. 46 s 91A
amd 2012 No. 20 s 281 sch 2
reloc and renum 2012 No. 20 s 313

Provisions about compensation for owners of lots 65 and 66 on RP909055

- s 334ZM (prev s 418B) ins 2002 No. 25 s 21
amd 2007 No. 39 s 41 sch; 2012 No. 20 s 323 sch 3
reloc and renum 2012 No. 20 s 313

Cancellation of Shelburne Bay mining leases

- s 334ZN (prev s 418C) ins 2003 No. 20 s 8
amd 2012 No. 20 s 281 sch 2
reloc and renum 2012 No. 20 s 313

Particular mineral development licences and mining leases

- s 334ZO (prev s 418D) ins 2004 No. 4 s 53B
reloc and renum 2012 No. 20 s 313

CHAPTER 13—ADMINISTRATION AND JUDICIAL FUNCTIONS

- ch 13 (prev pt 10 hdg) sub 2012 No. 20 s 308(2)

PART 1—DIRECTIONS TO REMEDY CONTRAVENTION

- pt hdg (prev pt 10 div 1A hdg) ins 2010 No. 31 s 461
sub 2012 No. 20 s 308(2)

Power to give compliance direction

- s 335A ins 2010 No. 31 s 461
amd 2013 No. 10 s 193 sch 1

Requirements for giving compliance direction

- s 335B ins 2010 No. 31 s 461
amd 2013 No. 10 s 193 sch 1

Failure to comply with compliance direction

- s 335C ins 2010 No. 31 s 461
amd 2013 No. 51 s 229 sch 1

Right of internal review and appeal against compliance direction

s 335D ins 2010 No. 31 s 461
amd 2013 No. 10 s 120

Other authorised officer's powers not affected

prov hdg amd 2013 No. 10 s 193 sch 1
s 335E ins 2010 No. 31 s 461
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

PART 2—CONFERENCES WITH ELIGIBLE CLAIMANTS OR OWNERS AND OCCUPIERS

pt hdg (prev pt 10 div 1B hdg) ins 2010 No. 31 s 461
sub 2012 No. 20 s 308(2)

Division 1—Preliminary

div hdg (prev pt 10 div 1B sdiv 1 hdg) ins 2010 No. 31 s 461
sub 2012 No. 20 s 308(2)

Application of pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 335F ins 2010 No. 31 s 461
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

Division 2—Calling conference and attendance

div hdg (prev pt 10 div 1B sdiv 2 hdg) ins 2010 No. 31 s 461
sub 2012 No. 20 s 308(2)

Calling conference

s 335G ins 2010 No. 31 s 461
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

Who may attend conference

s 335H ins 2010 No. 31 s 461
amd 2013 No. 10 s 193 sch 1

What happens if a party does not attend

s 335I ins 2010 No. 31 s 461
amd 2013 No. 10 s 193 sch 1

Division 3—Conduct of conference

div hdg (prev pt 10 div 1B sdiv 3 hdg) ins 2010 No. 31 s 461
sub 2012 No. 20 s 308(2)

Authorised officer's role

prov hdg amd 2013 No. 10 s 193 sch 1
s 335J ins 2010 No. 31 s 461
amd 2013 No. 10 s 193 sch 1

Statements made at conference

s 335K ins 2010 No. 31 s 461

Agreement made at conference

s 335L ins 2010 No. 31 s 461

PART 3—AUTHORISED OFFICERS

pt hdg (prev pt 10 div 1 hdg) sub 2012 No. 20 s 308(2)
sub 2013 No. 10 s 121

Appointment

prov hdg amd 2013 No. 10 s 122(1)

s 336 amd 1996 No. 37 s 147 sch 2; 2005 No. 8 s 2 sch; 2009 No. 25 s 83 sch; 2010 No. 31 s 462; 2012 No. 20 s 281 sch 2, s 323 sch 3; 2013 No. 10 s 122(2)–(6)

Appointment conditions and limit on powers

s 337 sub 1995 No. 21 s 93; 2013 No. 10 s 123

When office ends

prov hdg amd 2005 No. 8 s 2 sch

s 338 amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch
sub 2013 No. 10 s 123

Resignation

prov hdg amd 2005 No. 8 s 2 sch

s 339 amd 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch
sub 2013 No. 10 s 123

Issue of identity card

s 340 sub 2013 No. 10 s 123

Production or display of identity card

s 341 sub 2013 No. 10 s 123

Return of identity card

s 341A ins 2013 No. 10 s 123

Powers of authorised officers

prov hdg amd 2013 No. 10 s 124(1)

s 342 amd 1995 No. 21 ss 94, 3 sch; 2000 No. 5 s 373 sch 2; 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2008 No. 33 s 99; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 124(2)–(13)

Seizure of minerals produced by or vehicles, machinery etc. used in unauthorised mining

s 343 amd 2000 No. 5 s 373 sch 2; 2000 No. 64 ss 161, 174 sch; 2005 No. 8 s 2 sch; 2013 No. 10 s 125

Chief executive has functions and powers of mining registrars

s 343A ins 2012 No. 20 s 227

om 2013 No. 10 s 126

PART 4—ACCESS TO ABANDONED MINES

- pt hdg** prev pt 4 hdg (orig pt 10 div 2AAA hdg) ins 2012 No. 20 s 227
sub 2012 No. 20 s 308(2)
om 2013 No. 10 s 126
pres pt 4 hdg (prev ch 3 pt 5 hdg (orig pt 10 div 2AA hdg)) ins 2011 No. 2 s 73
sub 2012 No. 20 s 308(2)
renum 2013 No. 10 s 127

Definitions for pt 4

- prov hdg** amd 2012 No. 20 s 323 sch 3l; 2013 No. 10 s 193 sch 1
s 344 prev s 344 amd 1992 No. 68 s 3 sch 1
sub 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3
pres s 344 ins 2008 No. 33 s 100
sub 2011 No. 2 s 73
amd 2012 No. 20 s 323 sch 3

Authorised person to carry out rehabilitation activities

- s 344A** ins 2011 No. 2 s 73

Entering land to carry out rehabilitation activities

- s 344B** ins 2011 No. 2 s 73
amd 2012 No. 20 s 125 sch 1

Notice of entry

- s 344C** ins 2011 No. 2 s 73
amd 2012 No. 20 s 323 sch 3

Obligation of authorised person in carrying out rehabilitation activities

- s 344D** ins 2011 No. 2 s 73
amd 2012 No. 20 s 323 sch 3

PART 5—THE LAND COURT

- pt hdg** (prev ch 13 pt 6 hdg (orig pt 10 div 2 hdg)) sub 1999 No. 7 s 87 sch 3
amd 2007 No. 39 s 41 sch
sub 2012 No. 20 s 308(2)
renum 2013 No. 10 s 127

Appointment of wardens

- s 345** ins 1995 No. 21 s 95
amd 1996 No. 37 s 147 sch 2
om 1999 No. 7 s 87 sch 3

Terms and conditions of employment

- s 346** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Preservation of rights

- s 347** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Appointment of acting wardens

- s 348** ins 1995 No. 21 s 95
amd 1996 No. 37 s 147 sch 2
om 1999 No. 7 s 87 sch 3

Jurisdiction and powers of wardens

- s 349** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Oath to be taken by warden

- s 350** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Tenure of office

- s 351** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Continuation of jurisdiction on retirement

- s 352** ins 1995 No. 21 s 95
om 1999 No. 7 s 87 sch 3

Disability of warden

- s 353** om 1999 No. 7 s 87 sch 3

Scope of wardens authority

- s 354** om 1999 No. 7 s 87 sch 3

Establishment of offices of wardens

- s 355** om 1999 No. 7 s 87 sch 3

Existing wardens continue in office

- s 10.9I** ins 1995 No. 21 s 95
exp 2 May 1995 (see s 10.9I(3))

Acting wardens

- s 10.13** om 1995 No. 21 s 96

Power to enter land

- s 356** amd 1995 No. 21 s 3 sch
om 1999 No. 7 s 87 sch 3

Constitution of Wardens Courts

- s 357** om 1999 No. 7 s 87 sch 3

Mining registrar may constitute Wardens Court in some cases

- s 358** ins 1995 No. 21 s 97
om 1999 No. 7 s 87 sch 3

Wardens Court a court of record

- s 359** om 1999 No. 7 s 87 sch 3

Form of decisions of Wardens Court

- s 360** om 1999 No. 7 s 87 sch 3

Right of audience in Wardens Court

s 361 om 1999 No. 7 s 87 sch 3

Rules of evidence

s 362 om 1999 No. 7 s 87 sch 3

Substantive jurisdiction

s 363 amd 1990 No. 30 s 38; 1995 No. 21 s 98; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 162, 174 sch; 2003 No. 77 s 101; 2007 No. 39 s 41 sch

Application for interim orders by remote means

s 364 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Removal of proceedings from Supreme Court or District Court to Wardens Court

s 365 amd 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3

Removal of proceedings from Wardens Court to Supreme Court or District Court

s 366 amd 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3

Practice and procedure of Wardens Court

s 367 amd 1992 No. 68 s 3 sch 1; 1995 No. 21 s 3 sch
om 1999 No. 7 s 87 sch 3

Costs

s 368 amd 1997 No. 14 s 19; 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3

Adjournment by registrar of Wardens Court

s 369 om 1999 No. 7 s 87 sch 3

Jurisdiction of Supreme Court

s 370 amd 2005 No. 8 s 2 sch

Wardens Court proceedings

s 371 amd 1990 No. 30 s 39; 1995 No. 21 s 3 sch
om 1999 No. 7 s 87 sch 3

Attendance of witnesses

s 372 amd 1995 No. 21 s 3 sch
om 1999 No. 7 s 87 sch 3

Reservation of point of law

s 373 amd 1991 No. 68 s 111 sch 2
om 1999 No. 7 s 87 sch 3

Contempt of court

s 374 om 1999 No. 7 s 87 sch 3

Interpleader proceedings

s 375 om 1999 No. 7 s 87 sch 3

Powers of Wardens Court

s 376 amd 1995 No. 21 s 99
om 1999 No. 7 s 87 sch 3

Enforcement of decisions etc. of Wardens Court

s 377 amd 1999 No. 19 s 3 sch
om 1999 No. 7 s 87 sch 3

Power to order deposit of mineral etc.

s 378 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 125 sch 1

Inspection of land etc.

s 379 om 1999 No. 7 s 87 sch 3

Land Court may order survey

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 380 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

Power of Land Court to order surrender of minerals

prov hdg amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch
s 381 amd 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch

CHAPTER 14—MISCELLANEOUS PROVISIONS

ch hdg (prev pt 11 hdg) sub 2012 No. 20 s 311

Request to applicant about application

s 386J ins 2012 No. 20 s 228
amd 2013 No. 10 s 70; 2012 No. 20 s 323 sch 3; 2013 No. 10 s 128

Refusing application for failure to comply with request

s 386K ins 2012 No. 20 s 228
amd 2013 No. 10 s 129

Notice to progress relevant applications

s 386L ins 2012 No. 20 s 228
amd 2013 No. 10 s 71; 2012 No. 20 s 323 sch 3; 2013 No. 10 s 130

Particular criteria generally not exhaustive

s 386M ins 2012 No. 20 s 228
amd 2013 No. 10 ss 72, 193 sch 1

Particular grounds for refusal generally not exhaustive

s 386N ins 2012 No. 20 s 228
amd 2013 No. 10 ss 73, 193 sch 1

Place or way for making applications, giving, filing, forwarding or lodging documents or making submissions

s 386O ins 2012 No. 20 s 228
amd 2013 No. 10 s 131

Requirements for making application

s 386P ins 2012 No. 20 s 228
amd 2013 No. 10 ss 74, 132

Register to be kept

s 387 amd 2007 No. 46 s 87; 2012 No. 20 s 62; 2013 No. 10 s 75
sub 2012 No. 20 s 228 (amd 2013 No. 10 s 152)
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

Access to register

s 387A ins 2007 No. 46 s 88
sub 2012 No. 20 s 228

Arrangements with other departments for copies from register

prov hdg amd 2012 No. 20 s 281 sch 2
s 387B ins 2007 No. 46 s 88
amd 2012 No. 20 s 281 sch 2

Supply of statistical data from register

prov hdg amd 2012 No. 20 s 281 sch 2
s 387C ins 2007 No. 46 s 88
amd 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Chief executive may correct register

s 387D ins 2012 No. 20 s 229

Notice of change of address for service

s 388 amd 1995 No. 21 s 3 sch
sub 2005 No. 8 s 39
amd 2013 No. 10 s 193 sch 1

Duplicate permits, leases etc.

s 389 amd 2000 No. 64 s 174 sch; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 193 sch 1

Priority of competing applications

s 390 amd 2012 No. 20 s 281 sch 2; 2013 No. 10 ss 76, 193 sch 1

Restriction on grants etc.

s 391 amd 1990 No. 30 s 41
sub 1992 No. 68 s 3 sch 1
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 40; 2008 No. 33 s 101; 2008 No. 56
s 73; 2012 No. 20 s 125 sch 1

Restriction on decisions or recommendations about mining tenements

s 391A ins 2000 No. 64 s 163
amd 2005 No. 53 s 129; 2007 No. 39 s 41 sch; 2012 No. 20 s 230; 2012 No.
16 s 78 sch (amd 2013 No. 10 s 21(5))

Right of access for authorised activities includes access for rehabilitation and environmental management

s 391B ins 2005 No. 8 s 41
amd 2007 No. 46 s 89

Small scale mining code

s 391C ins 2013 No. 10 s 133

Substantial compliance with Act may be accepted as compliance

s 392 amd 1995 No. 21 s 3 sch; 1999 No. 7 s 87 sch 3; 2007 No. 39 s 41 sch; 2012 No. 20 s 231; 2013 No. 10 s 193 sch 1

Applicant or holder excused for neglect or default of authorised officer

prov hdg amd 2013 No. 10 s 193 sch 1

s 393 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Declaration of State forests etc. over land subject to grants

s 394 amd 2012 No. 20 s 125 sch 1

Minister's views before creation of National Park, Environmental Park etc.

s 11.9 om 1992 No. 20 s 159 sch 2

Act's application to holder of fossickers licence

s 395 sub 1994 No. 63 s 110(2) sch

Application of other Acts

s 396 amd 2000 No. 64 s 174 sch; 2006 No. 20 s 252 (amd 2007 No. 56 s 45)

Transfer of coal exploration or production well to petroleum tenure holder

s 396A ins 2004 No. 25 s 1025A (amd 2004 No. 26 s 261)
amd 2012 No. 20 s 281 sch 2

Limitation of owner's or occupier's tortious liability for authorised activities

s 397 sub 1990 No. 30 s 42; 2010 No. 52 s 32

Duty to avoid interference in carrying out authorised activities

s 397A ins 2010 No. 52 s 32

Obstruction of mining tenement holder

s 397B ins 2010 No. 52 s 32

Delegation by Minister and chief executive

s 398 sub 1995 No. 21 s 3 sch; 2008 No. 33 s 102; 2012 No. 20 s 232

Mode of service of documents

s 399 amd 1999 No. 7 s 87 sch 3; 2000 No. 64 s 174 sch; 2005 No. 8 ss 42, 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Acting in aid of authorised officer

prov hdg amd 2013 No. 10 s 193 sch 1

s 400 amd 2000 No. 5 s 373 sch 2; 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1

Protection against liability

s 401 amd 1999 No. 7 s 87 sch 3; 2000 No. 5 s 373 sch 2; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1

Protection against liability as condition of approval

s 401A ins 1998 No. 27 s 8

amd 2000 No. 64 s 174 sch; 2012 No. 20 ss 233, 125 sch 1, s 323 sch 3; 2013 No. 10 s 193 sch 1

Offences with respect to unauthorised mining etc.

s 402 amd 1995 No. 21 s 3 sch; 2000 No. 5 s 373 sch 2; 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1; 2013 No. 51 s 229 sch 1

Offences regarding land subject to mining claim or mining lease

s 403 amd 2004 No. 12 s 153; 2009 No. 3 s 512; 2010 No. 31 s 526; 2013 No. 51 s 229 sch 1

Offence to resist bailiff etc.

prov hdg amd 1999 No. 7 s 87 sch 3

s 404 amd 1999 No. 7 s 87 sch 3; 2000 No. 5 s 373 sch 2; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 193 sch 1; 2013 No. 51 s 229 sch 1

Distance of excavation from railway works

s 404A ins 2005 No. 8 s 43
amd 2008 No. 67 s 127; 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1

Interference with particular things

s 404B ins 2005 No. 8 s 43
amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 134

Information requirements for holders of mining tenements

s 404C ins 2005 No. 8 s 43
amd 2008 No. 56 s 74; 2009 No. 13 s 213 sch 5; 2013 No. 10 s 135

False or misleading document

s 404D ins 2005 No. 8 s 43
amd 2013 No. 10 s 136; 2013 No. 51 s 229 sch 1

Interference with road

s 404E ins 2007 No. 46 s 90

Directions to be complied with

s 405 sub 1995 No. 21 s 100
amd 2005 No. 8 s 2 sch; 2010 No. 31 s 463; 2013 No. 10 s 193 sch 1

Land Court may review direction or requirement

prov hdg amd 1999 No. 7 s 87 sch 3; 2002 No. 63 s 5(1); 2007 No. 39 s 41 sch
s 406 ins 1995 No. 21 s 100
amd 1999 No. 7 s 87 sch 3; 2002 No. 63 s 5(2); 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2012 No. 20 s 281 sch 2; 2013 No. 10 s 137

Minister may require survey

s 407 amd 1995 No. 21 s 101; 2003 No. 71 s 79; 2012 No. 20 s 125 sch 1

Surveyor not to have interest

s 408 amd 2003 No. 71 s 80; 2012 No. 20 s 125 sch 1

Removal orders

s 409 amd 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2007 No. 39 s 41 sch; 2013 No. 10 s 138

Indemnity against liability

s 411 amd 1996 No. 37 s 147 sch 2; 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2008 No. 33 s 103; 2012 No. 20 s 125 sch 1, s 281 sch 2; 2013 No. 10 s 193 sch 1

Offences and recovery of penalties etc.

s 412 amd 1999 No. 7 s 87 sch 3; 1999 No. 35 s 46; 2000 No. 64 s 174 sch; 2013 No. 51 s 108

Liability of executive officer—particular offences committed by company

s 412A ins 2013 No. 51 s 109

Executive officer may be taken to have committed offence

s 412B ins 2013 No. 51 s 109

Evidentiary provision

s 413 sub 1995 No. 21 s 102
amd 1999 No. 7 s 87 sch 3; 2005 No. 8 s 2 sch; 2013 No. 10 s 193 sch 1

Rights independent of this Act preserved

s 416 amd 1990 No. 30 s 43; 2002 No. 25 s 20; 2012 No. 20 s 323 sch 3

Approval of forms

s 416A ins 1999 No. 35 s 47
amd 2000 No. 64 s 164

Practice manual

s 416B ins 2007 No. 46 s 91
sub 2010 No. 31 s 422
amd 2011 No. 2 s 75; 2012 No. 20 ss 234, 281 sch 2 (amd 2013 No. 10 s 158(3))

Regulation-making power

prov hdg sub 2000 No. 64 s 165(1)
s 417 amd 1990 No. 30 s 44; 1995 No. 21 s 103; 1999 No. 7 s 87 sch 3; 2000 No. 64 ss 165(2), 174 sch; 2004 No. 25 s 1027 (amd 2004 No. 26 s 262); 2012 No. 20 ss 235, 125 sch 1, s 281 sch 2; 2013 No. 10 ss 139, 193 sch 1

Existing orders in council and rules of court

s 11.32 sub 1992 No. 68 s 3 sch 1
om 1995 No. 21 s 104
AIA s 20A applies (see s 11.33(1))

Application of Acts Interpretation Act, s 20A

s 11.33 ins 1995 No. 21 s 105
exp 1 May 1995 (see s 11.33(2))

Numbering and renumbering of Act

s 11.35 ins 1995 No. 21 s 105
om R3 (see RA s 37)

PART 18A—PROVISIONS ABOUT PARTICULAR MINING TENEMENTS

pt hdg prev pt 18A hdg ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)

pres pt 18A hdg ins 2008 No. 28 s 3
om 2012 No. 20 s 315

Division 1—Interpretation

div hdg ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)

Division 2—Demonstrated petroleum deposits

div hdg ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)

Division 3—Interim restriction

div hdg ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)

Division 4—Expiry

div hdg ins 2003 No. 56 s 3
exp beginning of 31 December 2004 (see s 722G)

CHAPTER 15—TRANSITIONAL PROVISIONS

ch hdg (prev pt 19 hdg) sub 1998 No. 38 s 10 (amd 1999 No. 35 s 55); 2012 No. 20 s 317

PART 1—GENERAL TRANSITIONAL PROVISION

pt hdg ins 2012 No. 20 s 317

References to repealed Acts

s 723AA (prev s 418) ins 1995 No. 21 s 105
reloc and renum 2012 No. 20 s 312

**PART 2—TRANSITIONAL PROVISIONS BEFORE MINES LEGISLATION
(STREAMLINING) AMENDMENT ACT 2012**

pt hdg ins 2012 No. 20 s 317

pt 2 note ins 2012 No. 20 s 317

Division 1—Transitional provisions for Act No. 27 of 1998

div hdg ins 1998 No. 38 s 10 (amd 1999 No. 35 s 55)

At Risk agreement conditions

s 723 ins 1998 No. 27 s 9
(prev s 419) renum 1998 No. 38 s 11 (amd 1999 No. 35 s 55)

Application of Mineral Resources Amendment Act 1998

s 724 ins 1998 No. 27 s 9
(prev s 420) renum 1998 No. 38 s 11 (amd 1999 No. 35 s 55)

Division 2—Transitional provisions for Act No. 38 of 1998

div hdg ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)

Application of div 2

s 725 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 12

Definitions for div 2

s 726 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
def *native title provisions start day* ins 2000 No. 36 s 13

Giving advice of notification commencement day

s 727 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)

Existing prospecting permit applications

s 728 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 14

Existing mining claim applications

s 729 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1

Existing exploration permit applications

s 730 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2000 No. 64 s 174 sch

Existing mineral development licence applications

s 731 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2000 No. 64 s 174 sch; 2012 No. 20 s 281 sch 2

Existing mining lease applications

s 732 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1

Existing applications for certain approvals

s 733 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1

Separate hearings

s 734 ins 1998 No. 38 s 12 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2005 No. 8 s 2 sch

Division 3—Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000

div hdg ins 2000 No. 64 s 167

Existing Act continues to apply for special agreement Acts until Environmental Protection Act, ch 13, pt 2, div 7 commences

prov hdg amd 2008 No. 37 s 21(1)
s 735 ins 2000 No. 64 s 167
amd 2004 No. 5 s 8 sch; 2008 No. 37 s 21(2)–(5)

Division 4—Transitional provision for Mineral Resources and Other Legislation Amendment Act 2002

div hdg ins 2002 No. 63 s 6

Exclusion of pt 7A for continuance of existing notifiable road uses

s 736 prev s 736 ins 2000 No. 64 s 167
exp 25 November 2000
pres s 736 ins 2002 No. 63 s 6
amd 2004 No. 25 s 1026

**Division 5—Transitional provisions for Natural Resources and Other Legislation
Amendment Act 2003**

div hdg ins 2003 No. 10 s 56

No notification commencement day advised before 31 March 2003

s 737 ins 2003 No. 10 s 56

Effect of extension of time for giving notice or information

s 738 ins 2003 No. 10 s 56
amd 2005 No. 8 s 2 sch

**Division 6—Transitional provisions for Petroleum and Gas (Production and Safety)
Act 2004**

div hdg ins 2004 No. 25 s 1028

Subdivision 1—Preliminary

sdiv hdg ins 2004 No. 25 s 1028

Definitions for div 6

s 739 ins 2004 No. 25 s 1028
def *mineral hydrocarbon mining lease* ins 2004 No. 25 s 1028 (amd 2004
No. 26 s 263(2))
amd 2005 No. 3 s 6 (amdt could not be given effect)

Subdivision 2—Provisions for special agreement Acts

sdiv hdg ins 2004 No. 25 s 1028

Application of div 6 to special coal mining lease under special agreement Act

s 740 ins 2004 No. 25 s 1028

Unfinished special coal mining lease applications

s 741 ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 263(3)–(4) (amdt could not be
given effect))
amd 2005 No. 3 s 7 (retro)

Division 6 prevails over special agreement Acts

s 742 ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 69(2) sch)
amd 2005 No. 3 s 105 sch

No compensation

s 743 ins 2004 No. 25 s 1028

Subdivision 3—Provision for section 3A

sdiv hdg ins 2004 No. 25 s 1028

Application of s 3A to existing mining tenements

s 744 ins 2004 No. 25 s 1028

**Subdivision 4—Unfinished coal or oil shale mining lease applications for land in area
of petroleum tenure**

sdiv hdg ins 2004 No. 25 s 1028

Application of pt 7AA

s 745 ins 2004 No. 25 s 1028
amd 2010 No. 17 s 48 sch; 2012 No. 20 s 242

Subdivision 5—Provisions for existing coal mining leases**sdiv hdg** ins 2004 No. 25 s 1028**Clarification provision for coal seam gas****s 746** ins 2004 No. 25 s 1028**Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases****s 747** ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 263(5))
amd 2005 No. 3 s 8; 2007 No. 46 s 93**Restriction on flaring or venting coal seam gas****s 748** ins 2004 No. 25 s 1028**Deferral of ss 318CN(2) and 318CO for particular existing coal mining lease holders****s 749** ins 2004 No. 25 s 1028**Deferral of s 318CR(1) for existing coal mining lease holders****s 750** ins 2004 No. 25 s 1028**Subdivision 6—Modified application of section 318CI for particular existing exploration tenements overlapping with petroleum lease****sdiv hdg** ins 2004 No. 25 s 1028**Application of sdiv 6****s 751** ins 2004 No. 25 s 1028**Modified application of s 318CI until 3 months after commencement****s 752** ins 2004 No. 25 s 1028**Power to relinquish if activity restricted****s 753** ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 263(6)–(7))**Subdivision 7—Particular provision for existing mineral development licences that overlap with a Petroleum Act lease****sdiv hdg** ins 2004 No. 25 s 1028**Application of sdiv 7****s 754** ins 2004 No. 25 s 1028**Substituted restriction on authorised activities****s 755** ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 69(2) sch)**Subdivision 8—Development plans****sdiv hdg** ins 2004 No. 25 s 1028**Application of sdiv 8****s 756** ins 2004 No. 25 s 1028
amd 2005 No. 3 s 8A**Deferral of obligation to comply with development plan****s 757** ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 263(8))

Obligation to lodge proposed development plan

s 758 ins 2004 No. 25 s 1028
amd 2012 No. 20 s 125 sch 1

Application of pt 7AA, div 9, sdiv 3 for approval of proposed plan

s 759 ins 2004 No. 25 s 1028

Additional requirement for proposed development plan for mineral hydrocarbon mining lease

s 760 ins 2004 No. 25 s 1028

Additional condition for proposed development plan for mineral hydrocarbon mining lease

s 761 ins 2004 No. 25 s 1028 (amd 2004 No. 26 s 69(2) sch)

Omission of particular conditions to be superseded by development plan

s 762 ins 2004 No. 25 s 1028

Development plan requirements for renewal applications if no current development plan

s 763 ins 2004 No. 25 s 1028
amd 2012 No. 20 s 125 sch 1

Division 7—Transitional provisions for Mineral Resources and Other Legislation Amendment Act 2005

div hdg (prev pt 19 div 6 hdg) ins 2005 No. 8 s 44
renum and reloc 2007 No. 39 s 34

Application of particular provisions

s 764 (prev s 739) ins 2004 No. 8 s 44
renum and reloc 2007 No. 39 s 35

Application of public interest provisions to undecided applications

s 764A ins 2009 No. 3 s 513

Division 8—Transitional provisions for Land Court and Other Legislation Amendment Act 2007

div 8 (ss 765–766) ins 2007 No. 39 s 36

Division 9—Transitional provision for Mining and Other Legislation Amendment Act 2007

div hdg ins 2007 No. 46 s 94

Provision for amendment of s 133

s 766A (prev s 766) ins 2007 No. 46 s 94
renum 2012 No. 20 s 125 sch 1

Division 10—Transitional provisions for Clean Energy Act 2008

div hdg ins 2008 No. 33 s 105
amd 2009 No. 3 s 514

Continuation of regulation under s 391

s 767 ins 2008 No. 33 s 105

Application of s 208(3A) to existing applications

s 767A ins 2009 No. 3 s 515

Division 11—Transitional provision for Mines and Energy Legislation Amendment Act 2008

div hdg ins 2008 No. 56 s 77

Subdivision 1—Provisions for amendments to due dates and reminder dates

sdiv hdg ins 2008 No. 56 s 77

Application of div 11

s 768 ins 2008 No. 56 s 77

Transitional provision for rental

s 769 ins 2008 No. 56 s 77

Transitional provision for contravention provisions

s 770 ins 2008 No. 56 s 77

Subdivision 2—Provision for special agreement Acts

sdiv hdg ins 2008 No. 56 s 77

Payment of rent for special agreement Act leases

s 771 ins 2008 No. 56 s 77

Subdivision 3—Miscellaneous provision

sdiv hdg ins 2009 No. 3 s 516

Existing applications

s 772 ins 2009 No. 3 s 516

Division 12—Transitional provision for Mines and Energy Legislation Amendment Act 2010

div hdg ins 2010 No. 17 s 59
sub 2010 No. 31 s 424

Existing mining lease applications

s 773 prev s 773 ins 2009 No. 3 s 516
exp 24 February 2009 (see s 773(2))
AIA s 20A applies (see s 773(3))
pres s 773 ins 2010 No. 17 s 59
sub 2010 No. 31 s 424

Division 13—Transitional provisions for amendments under Geothermal Energy Act 2010

div hdg ins 2010 No. 31 s 424

Subdivision 1—Provision for amendments commencing on date of assent

sdiv 1 (ss 774–775) ins 2010 No. 31 s 424

Subdivision 2—Provisions for amendments about compensation and the land access code

sdiv hdg ins 2010 No. 31 s 464

Old access code ceases to apply

s 776 ins 2010 No. 31 s 464

Land access code prevails over conditions

s 777 ins 2010 No. 31 s 464

Existing compensation decisions and proceedings continue

s 778 ins 2010 No. 31 s 464

Existing arrangements about compensation

s 779 ins 2010 No. 31 s 464

Existing notices of entry

s 780 ins 2010 No. 31 s 464 (amd 2010 No. 52 s 25(1)–(2))

Additional exemption to conduct and compensation agreement requirement

s 781 ins 2010 No. 31 s 464 (amd 2010 No. 52 s 25(3)–(7))

References to geothermal tenure

s 782 ins 2010 No. 31 s 464

Subdivision 3—Provisions for enactment of Geothermal Energy Act 2010

sdiv hdg ins 2010 No. 31 s 527

Definitions for sdiv 3

s 783 ins 2010 No. 31 s 527 (amd 2011 No. 20 s 149)

Existing mining tenement applications

s 784 ins 2010 No. 31 s 527 (amd 2011 No. 20 s 149)

Existing mining claims consented to by geothermal permit holder

s 785 ins 2010 No. 31 s 527 (amd 2011 No. 20 s 149)

Division 14—Transitional provision for Gas Security Amendment Act 2011

div hdg ins 2011 No. 16 s 6

Date of effect of amended s 381A

s 786 (prev s 783) ins 2011 No. 16 s 6
renum 2011 No. 20 s 166

Division 15—Transitional provision for Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011

div 15 (s 787) ins 2011 No. 20 s 167

PART 3—TRANSITIONAL PROVISIONS FOR MINES LEGISLATION (STREAMLINING) AMENDMENT ACT 2012—AMENDMENTS COMMENCING ON ASSENT

pt hdg (prev pt 19 div 16 hdg) ins 2012 No. 20 s 63
sub 2012 No. 20 s 318

Definitions for div 16

s 788 ins 2012 No. 20 s 63

Particular land in a mining tenement's area taken before the commencement

s 789 ins 2012 No. 20 s 63
amd 2013 No. 23 s 352 sch 1 pt 1

Land in a mining tenement's area for which notice of intention to resume given before the commencement

s 790 ins 2012 No. 20 s 63

PART 4—TRANSITIONAL PROVISIONS FOR MINES LEGISLATION (STREAMLINING) AMENDMENT ACT 2012—AMENDMENTS COMMENCING BY PROCLAMATION

pt hdg (prev pt 19 div 17 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 319

Division 1—Preliminary

div hdg (prev pt 19 div 17 sdiv 1 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Definitions for div 17

s 791 ins 2012 No. 20 s 243

Division 2—Provisions relating to exploration permits

div 2 (prev pt 19 div 17 sdiv 2 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Particular applications for exploration permits

s 792 ins 2012 No. 20 s 243

Periodic reduction in land covered by existing exploration permit

s 793 ins 2012 No. 20 s 243

Division 3—Provisions relating to mining claims

div hdg (prev pt 19 div 17 sdiv 3 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Existing applications for mining claim if no referral to Land Court

s 794 ins 2012 No. 20 s 243

Existing applications for mining claim or renewal of mining claim—term of claim

s 795 ins 2012 No. 20 s 243 (amd 2013 No. 10 s 153)

Division 4—Provisions relating to mining leases

div hdg (prev pt 19 div 17 sdiv 4 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Existing applications for mining lease if no referral to Land Court

s 796 ins 2012 No. 20 s 243

Existing referral of mining lease to Land Court

s 797 ins 2012 No. 20 s 243

Minister to decide particular applications for or about mining leases

s 798 ins 2012 No. 20 s 243

Endnotes

Division 5—Provisions common to mining tenements

div hdg (prev pt 19 div 17 sdiv 5 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Unfinished actions under former s 96, 151, 198 or 300

s 799 ins 2012 No. 20 s 243

Deciding applications for approval of assessable transfers until commencement of particular provisions

s 800 ins 2012 No. 20 s 243

Continued functions for caveats received before the commencement

s 801 ins 2012 No. 20 s 243

Continued functions for removal or withdrawal of caveat

s 802 ins 2012 No. 20 s 243

Division 6—Other provisions

div hdg (prev pt 19 div 17 sdiv 6 hdg) ins 2012 No. 20 s 243
sub 2012 No. 20 s 320(2)

Existing requests for information

s 803 ins 2012 No. 20 s 243

Relocation and renumber of provisions

s 804 ins 2012 No. 20 s 321

PART 5—TRANSITIONAL PROVISION FOR FISCAL REPAIR AMENDMENT ACT 2012

pt hdg (prev pt 19 div 18 hdg) ins 2012 No. 25 s 150
sub 2012 No. 20 s 321A (amd 2013 No. 10 s 157)

Application of Act to particular unpaid royalty

s 805 ins 2012 No. 25 s 150

PART 6—TRANSITIONAL PROVISIONS FOR MINING AND OTHER LEGISLATION AMENDMENT ACT 2013

pt hdg (prev pt 19 div 19 hdg) ins 2013 No. 10 s 77
sub 2012 No. 20 s 321B (amd 2013 No. 10 s 157)

Division 1—Provisions for amendments commencing on assent

div hdg (prev pt 19 div 19 sdiv 1 hdg) ins 2013 No. 10 s 77
sub 2012 No. 20 s 321B (amd 2013 No. 10 s 157)

Definition for div 1

prov hdg amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))
s 806 ins 2013 No. 10 s 77
amd 2012 No. 20 s 323 sch 3 (amd 2013 No. 10 s 159(2))

Existing applications for exploration permits for minerals other than coal

s 807 ins 2013 No. 10 s 77

Existing applications for exploration permits for coal

s 808 ins 2013 No. 10 s 77

Division 2—Provisions for amendments commencing by proclamation**div 2** (ss 809–816) ins 2013 No. 10 s 140**SCHEDULE 1—ACCESS AND COMPENSATION PROVISIONS FOR EXPLORATION PERMITS AND MINERAL DEVELOPMENT LICENCES****sch 1** prev sch 1 amd 1990 No. 30 s 45
om R1 (see RA s 40)
pres sch 1 ins 2010 No. 31 s 465**PART 1—PRELIMINARY****pt hdg** ins 2010 No. 31 s 465**Division 1—Key definitions for schedule 1****div 1** (ss 1–3) ins 2010 No. 31 s 465**Division 2—Other definitions for schedule 1****div 2** (s 4) ins 2010 No. 31 s 465**PART 2—REQUIREMENTS FOR ENTRY TO EXPLORATION TENEMENT AREA****pt hdg** ins 2010 No. 31 s 465**Division 1—Entry notice requirement for preliminary activities and particular advanced activities****div hdg** ins 2010 No. 31 s 465**Entry notice requirement for particular authorised activities****s 5** ins 2010 No. 31 s 465
amd 2012 No. 20 s 125 sch 1; 2013 No. 10 s 193 sch 1; 2013 No. 51 s 229 sch 1**Required contents of entry notice****s 6** ins 2010 No. 31 s 465
amd 2012 No. 16 s 78 sch; 2013 No. 10 s 141**Exemptions from entry notice requirement****s 7** ins 2010 No. 31 s 465**Provisions for waiver of entry notice****s 8** ins 2010 No. 31 s 465**Giving entry notice by publication****s 9** ins 2010 No. 31 s 465
amd 2013 No. 10 s 193 sch 1**Division 2—Conduct and compensation agreement requirement for particular advanced activities****div hdg** ins 2010 No. 31 s 465**Conduct and compensation agreement requirement for particular advanced activities****s 10** ins 2010 No. 31 s 465
amd 2012 No. 20 s 125 sch 1; 2013 No. 51 s 229 sch 1

Exemptions from conduct and compensation agreement requirement

s 11 ins 2010 No. 31 s 465

Requirements for deferral agreement

s 12 ins 2010 No. 31 s 465

PART 3—COMPENSATION LIABILITY

pt hdg ins 2010 No. 31 s 465

General liability to compensate eligible claimants

s 13 ins 2010 No. 31 s 465 (amd 2010 No. 52 s 26)

PART 4—GENERAL PROVISIONS FOR CONDUCT AND COMPENSATION AGREEMENTS

pt 4 (ss 14–15) ins 2010 No. 31 s 465

PART 5—NEGOTIATION PROCESS

pt hdg ins 2010 No. 31 s 465

Notice of intent to negotiate

s 16 ins 2010 No. 31 s 465
amd 2013 No. 10 s 193 sch 1

Negotiations

s 17 ins 2010 No. 31 s 465

Provision for the minimum negotiation period

s 18 ins 2010 No. 31 s 465

Cooling-off during minimum negotiation period

s 19 ins 2010 No. 31 s 465

Parties may seek conference or independent ADR

s 20 ins 2010 No. 31 s 465
amd 2013 No. 10 s 193 sch 1

Conduct of conference or ADR

s 21 ins 2010 No. 31 s 465
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 193 sch 1

PART 6—DECIDING COMPENSATION THROUGH LAND COURT

pt hdg ins 2010 No. 31 s 465

Land Court may decide if negotiation process unsuccessful

s 22 ins 2010 No. 31 s 465
amd 2013 No. 10 s 193 sch 1

Land Court review of compensation

s 23 ins 2010 No. 31 s 465

Orders Land Court may make

s 24 ins 2010 No. 31 s 465

**PART 7—ADDITIONAL LAND COURT JURISDICTION FOR COMPENSATION
AND RELATED MATTERS**

pt 7 (ss 25–27) ins 2010 No. 31 s 465

PART 8—MISCELLANEOUS PROVISION

pt 8 (s 28) ins 2010 No. 31 s 465

SCHEDULE 1A—NATIVE TITLE PROVISIONS

sch hdg ins 2012 No. 20 s 322

PART 1—INTRODUCTION TO NATIVE TITLE PROVISIONS

pt hdg (prev pt 12 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Application of native title provisions

s 419 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Exclusion of certain agreed acts from pts 2–6

prov hdg amd 2008 No. 33 s 104; 2012 No. 20 s 323 sch 3
s 420 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Effect of failure to comply with native title provisions

s 421 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Definitions for native title provisions

s 422 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
def *alternative provision area* om 2000 No. 36 s 18 sch 1
def *mining tenement* om 2006 No. 59 s 85 sch
def *registered indigenous land use agreement* ins 2000 No. 36 s 18 sch 1
om 2000 No. 64 s 174 sch

Other provisions for interpretation of native title provisions

s 423 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2003 No. 10 s 76 sch; 2010 No. 31 ss 420, 520 sch 2 pt 2
reloc 2012 No. 20 s 314

Application of Judicial Review Act

s 424 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

PART 2—NATIVE TITLE PROVISIONS FOR PROSPECTING PERMITS

pt hdg (prev pt 13 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Purpose of pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 425 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Application of pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 426 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 35; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Exclusion of certain prospecting permits from pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 427 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Limited application of pt 2 to prospecting permit in approved opal or gem mining area

prov hdg amd 2012 No. 20 s 323 sch 3
s 428 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Definitions for pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 429 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
def *access agreement* ins 2000 No. 36 s 19 sch 2
def *consultation period* sub 2000 No. 36 s 19 sch 2
def *consultation period advice day* ins 2000 No. 36 s 19 sch 2
def *registered native title party* ins 2000 No. 36 s 19 sch 2

Meaning of low impact prospecting permit for pt 2

prov hdg amd 2012 No. 20 s 323 sch 3
s 430 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Delayed start for prospecting permit if access agreement required

s 430A ins 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Division 2—Notification requirements

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Requirement to notify

s 431 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2; 2005 No. 8 s 2 sch; 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Failure to notify correctly

- s 432** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Division 3—Consultation and access agreement requirements before entry

- div hdg** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Requirement for consultation and access agreement

- prov hdg** sub 2000 No. 36 s 19 sch 2
s 433 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Prospecting activities to be carried out in accordance with access agreement

- s 433A** ins 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Consultation matters

- s 434** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Access agreements

- s 434A** ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Consultation period and consultation period advice day

- s 435** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Parties may seek mediation

- prov hdg** sub 2000 No. 36 s 19 sch 2
s 436 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Decision by tribunal

- s 436A** ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Notice of access agreement

s 437 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Chief executive may take action

prov hdg amd 2013 No. 10 s 193 sch 1
s 438 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

PART 3—NATIVE TITLE PROVISIONS FOR MINING CLAIMS

pt hdg (prev pt 14 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Purpose of pt 3

prov hdg amd 2012 No. 20 s 323 sch 3
s 439 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Limited application of pt 3 to mining claim in approved opal or gem mining area

prov hdg amd 2012 No. 20 s 323 sch 3
s 440 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Meaning of *surface alluvium (gold or tin) mining claim*

s 441 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Division 2—Surface alluvium (gold or tin) mining claims

div 2 (ss 442–458) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Division 3—Other mining claims on alternative provision areas

div 3 (ss 459–461) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Division 4—Mining claims

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Application of div 4

s 462 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 36; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Requirement for grant

s 463 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Applying pt 6, div 4 for grant

prov hdg amd 2012 No. 20 s 323 sch 3
s 464 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2012 No. 20 s 281 sch 2, s 323 sch 3
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 142(1)–(2)

Division 5—Renewals of mining claims

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Application of div 5

s 465 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 37; 2012 No. 20 s 125 sch 1, s 323
 sch 3
 reloc 2012 No. 20 s 314

Requirements for renewal—applying div 2

s 466 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Applying div 2 for renewal

s 467 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 3

s 468 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Applying div 3 for renewal

s 469 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 4

s 470 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1
 reloc 2012 No. 20 s 314

Applying div 4 for renewal

s 471 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Division 6—Requirements for subsidiary approvals

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Endnotes

Application of div 6

s 472 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 38; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Requirements for addition—applying div 2

s 473 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 2 for addition

s 474 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for addition—applying div 3

s 475 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 3 for addition

s 476 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for addition—applying div 4

s 477 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Applying div 4 for addition

s 478 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

PART 4—NATIVE TITLE PROVISIONS FOR EXPLORATION PERMITS

pt hdg (prev pt 15 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Purpose of pt 4

prov hdg amd 2012 No. 20 s 323 sch 3
s 479 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Limited application of pt 4 to exploration permit in approved opal or gem mining area

prov hdg amd 2012 No. 20 s 323 sch 3
s 480 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Meaning of *low impact exploration permit*

s 481 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Meaning of *low impact activity*

s 482 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Meaning of *high impact exploration permit*

s 483 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Division 2—Low impact exploration permits

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Subdivision 1—Preliminary

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Application of div 2

s 484 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 39; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Definitions for div 2

s 485 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
def *access agreement* ins 2000 No. 36 s 19 sch 2
def *consultation period advice day* ins 2000 No. 36 s 19 sch 2
def *registered native title party* ins 2000 No. 36 s 19 sch 2

Subdivision 2—Notification requirements

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Requirement to notify

s 486 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2; 2003 No. 10 s 40; 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Notification of chief executive

prov hdg amd 2013 No. 10 s 193 sch 1
s 487 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2003 No. 10 s 41; 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Subdivision 3—Consultation and access agreement requirements before entry

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Requirement for consultation and access agreement

prov hdg sub 2000 No. 36 s 19 sch 2
s 488 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Exploration activities to be carried out in accordance with access agreement

s 488A ins 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Consultation matters

s 489 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Access agreements

s 489A ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Consultation period and consultation period advice day

s 490 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Parties may seek mediation

prov hdg sub 2000 No. 36 s 19 sch 2
s 491 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2; 2010 No. 31 ss 420, 520 sch 2 pt 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Decision by tribunal

s 491A ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Notice of access agreement

s 492 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Chief executive may recommend action

prov hdg amd 2013 No. 10 s 193 sch 1
s 493 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 19 sch 2
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Division 3—High impact exploration permits on alternative provision areas

div 3 (ss 494–521) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Division 4—High impact exploration permits

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1
 reloc 2012 No. 20 s 314

Application of div 4

s 522 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 42; 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Requirements for grant

s 523 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Applying pt 6, div 4 for grant

prov hdg amd 2012 No. 20 s 323 sch 3
s 524 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 64 s 174 sch; 2003 No. 10 s 43; 2005 No. 8 s 2 sch; 2012 No.
 20 s 281 sch 2, s 323 sch 3
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Division 5—Renewals of exploration permits

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Application of div 5

s 525 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 44; 2012 No. 20 s 125 sch 1, s 323
 sch 3
 reloc 2012 No. 20 s 314

Requirements for renewal—applying div 2

s 526 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Requirements for renewal—applying div 3

s 527 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Endnotes

Applying div 3 for renewal

s 528 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 4

s 529 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Applying div 4 for renewal

s 530 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Division 6—Requirements for subsidiary approvals

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Application of div 6

s 531 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 45; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Requirements for variation—low impact exploration permit

s 532 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Requirements for variation—high impact exploration permit

s 533 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for variation or addition—other exploration permits

s 534 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

PART 5—NATIVE TITLE PROVISIONS FOR MINERAL DEVELOPMENT LICENCES

pt hdg (prev pt 16 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Purpose of pt 5

prov hdg amd 2012 No. 20 s 323 sch 3
s 535 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Limited application of pt 5 to mineral development licence in approved opal or gem mining area

prov hdg amd 2012 No. 20 s 323 sch 3
s 536 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Meaning of low impact mineral development licence

s 537 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2012 No. 20 s 125 sch 1
 reloc 2012 No. 20 s 314

Meaning of low impact activity

s 538 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 19 sch 2
 reloc 2012 No. 20 s 314

Meaning of high impact mineral development licence

s 539 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Division 2—Low impact mineral development licences

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Subdivision 1—Preliminary

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Application of div 2

s 540 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 46; 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Definitions for div 2

s 541 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314
 def *access agreement* ins 2000 No. 36 s 19 sch 2
 def *consultation period* sub 2000 No. 36 s 19 sch 2
 def *consultation period advice day* ins 2000 No. 36 s 19 sch 2
 def *consultation start day* om 2000 No. 36 s 19 sch 2
 def *registered native title party* ins 2000 No. 36 s 19 sch 2

Subdivision 2—Notification requirements

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Requirement to notify

s 542 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 19 sch 2; 2003 No. 10 s 47; 2005 No. 8 s 2 sch; 2012 No.
 20 s 125 sch 1
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Notification of chief executive

- prov hdg** amd 2013 No. 10 s 193 sch 1
s 543 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2; 2003 No. 10 s 48; 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Subdivision 3—Consultation and access agreement requirements before entry

- sdiv hdg** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Requirement for consultation and access agreement

- prov hdg** sub 2000 No. 36 s 19 sch 2
s 544 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Mineral development activities to be carried out in accordance with access agreement

- s 544A** ins 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Consultation matters

- s 545** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314

Access agreements

- s 545A** ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Consultation period and consultation period advice day

- s 546** ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 19 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Parties may seek mediation

- prov hdg** sub 2000 No. 36 s 19 sch 2
s 547 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 19 sch 2; 2010 No. 31 ss 420, 520 sch 2 pt 2; 2012 No. 20
s 323 sch 3 (amd 2013 No. 10 s 159(3))
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Decision by tribunal

- s 547A** ins 2000 No. 36 s 19 sch 2
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Notice of access agreement

s 548 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 sub 2000 No. 36 s 19 sch 2
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Chief executive may recommend action

prov hdg amd 2013 No. 10 s 193 sch 1
s 549 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 19 sch 2
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Division 3—High impact mineral development licences on alternative provision areas

div 3 (ss 550–578) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 om 2000 No. 36 s 18 sch 1

Division 4—High impact mineral development licences

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1
 reloc 2012 No. 20 s 314

Application of div 4

s 579 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 49; 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Requirements for grant

s 580 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2012 No. 20 s 323 sch 3
 reloc 2012 No. 20 s 314

Applying pt 6, div 4 for grant

prov hdg amd 2012 No. 20 s 323 sch 3
s 581 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2000 No. 64 s 174 sch; 2003 No. 10 s 50; 2005
 No. 8 s 2 sch; 2012 No. 20 s 281 sch 2, s 323 sch 3
 reloc 2012 No. 20 s 314
 amd 2013 No. 10 s 193 sch 1

Division 5—Renewals of mineral development licences

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 reloc 2012 No. 20 s 314

Application of div 5

s 582 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
 amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 51; 2012 No. 20 s 125 sch 1, s 323
 sch 3
 reloc 2012 No. 20 s 314

Requirements for renewal—applying div 2

s 583 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Requirements for renewal—applying div 3

s 584 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 3 for renewal

s 585 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 4

s 586 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Applying div 4 for renewal

s 587 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Division 6—Requirements for subsidiary approvals

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Application of div 6

s 588 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 52; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Requirements for variation—low impact mineral development licence

s 589 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Requirements for variation—high impact mineral development licences

s 590 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Requirements for variation or addition—other mineral development licences

s 591 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Requirements for approval—adding minerals to mineral development licence

s 592 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

PART 6—NATIVE TITLE PROVISIONS FOR MINING LEASES

pt hdg (prev pt 17 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Purpose of pt 6

prov hdg amd 2012 No. 20 s 323 sch 3
s 593 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Limited application of pt 6 to mining lease in approved opal or gem mining area

prov hdg amd 2012 No. 20 s 323 sch 3
s 594 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Meaning of *surface alluvium (gold or tin) mining lease*

s 595 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

No re-opening of issues previously decided

s 596 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1, s 323 sch 3
reloc 2012 No. 20 s 314

Division 2—Surface alluvium (gold or tin) mining leases

div 2 (ss 597–613) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Division 3—Other mining leases on alternative provision areas

div 3 (ss 614–649) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Division 4—Mining leases

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
sub 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Subdivision 1—Preliminary

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Application of div 4

s 650 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 53; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Definitions for div 4

s 651 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Subdivision 2—Notification and registration requirements

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Requirement to notify

s 652 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Content of written notice

s 653 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 174 sch; 2012 No. 20 ss 236, 125 sch 1
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Notification of chief executive

prov hdg amd 2013 No. 10 s 193 sch 1
s 654 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Registered native title parties

s 655 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Advice to chief executive

prov hdg amd 2013 No. 10 s 193 sch 1
s 656 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Ending of additional requirements

s 657 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 9; 2005 No. 8 s 2 sch; 2012 No. 20 s 237
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Subdivision 3—Consultation and negotiation

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Parties to consultation and negotiation

s 658 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2005 No. 68 s 150 sch
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Requirement for consultation and negotiation in good faith

s 659 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Content of negotiation in good faith

s 660 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Failure to negotiate

s 661 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Request for mediation

s 662 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Process for consultation and negotiation—applicant consultation

s 663 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 142(3)–(4)

Process for consultation and negotiation—registered native title parties consultation

s 664 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Process for consultation and negotiation—taking account of existing rights, interests and use

s 665 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Process for consultation and negotiation—negotiated agreement with or without conditions attached

s 666 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 10; 2005 No. 8 s 2 sch; 2012 No. 20 s 238
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Process for consultation and negotiation—negotiated agreement with conditions attached

s 667 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Objections

s 668 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Subdivision 4—Referral and native title issues decision

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Referral of proposed mining lease to tribunal

s 669 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 166
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Continuing negotiation

s 670 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Combined hearing

s 671 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2010 No. 17 s 58
reloc 2012 No. 20 s 314

Fixing of date for combined hearing

s 672 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2007 No. 46 s 92
reloc 2012 No. 20 s 314

Subdivision 5—Requirements for combined hearing

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Directions about conduct of combined hearing

s 673 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Issue of negotiation in good faith

s 674 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Nature of native title issues decision

s 675 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Timing of tribunal's recommendation and native title issues decision

s 676 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Tribunal's native title issues decision

s 677 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Deferred matters

s 678 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

General time requirement for making native title issues decision

s 679 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Effect of native title issues decision

s 680 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 281 sch 2
reloc 2012 No. 20 s 314

Subdivision 6—Overruling of native title issues decision

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Minister may overrule native title issues decision

s 681 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Effect of overruling

s 682 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 281 sch 2
reloc 2012 No. 20 s 314

Subdivision 7—Special provisions about completion of combined hearing and making of native titles issues decision

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Giving of urgency notice

s 683 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Minister's decision if tribunal recommendation delayed

s 684 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Consultation before Minister's decision

s 685 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2005 No. 8 s 2 sch
reloc 2012 No. 20 s 314

Minister's decisions generally

s 686 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Subdivision 8—Miscellaneous matters about grant

sdiv hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Contract conditions

s 687 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 239
reloc 2012 No. 20 s 314

Notice of grant to registered native title parties

s 688 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2005 No. 8 s 2 sch; 2012 No. 20 s 240
reloc 2012 No. 20 s 314

Division 5—Renewals of mining leases

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Application of div 5

s 689 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 54; 2012 No. 20 s 125 sch 1, s 323
sch 3
reloc 2012 No. 20 s 314

Requirements for renewal—applying div 2

s 690 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 2 for renewal

s 691 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 3

s 692 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 3 for renewal

s 693 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for renewal—applying div 4

s 694 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Applying div 4 for renewal

s 695 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2009 No. 16 s 60; 2012 No.
20 s 125 sch 1
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Division 6—Requirements for subsidiary approvals

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Meaning of *approval* in div 6

s 696 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Application of div 6

s 697 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2003 No. 10 s 55; 2012 No. 20 s 323 sch 3
reloc 2012 No. 20 s 314

Requirements for approval (additional area)—applying div 3

s 698 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for approval (additional area)—applying div 4

s 699 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Requirements for approval (other changes)—applying div 2

s 700 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 2 for approval

s 701 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for approval (other changes)—applying div 3

s 702 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Applying div 3 for approval

s 703 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
om 2000 No. 36 s 18 sch 1

Requirements for approval (other changes)—applying div 4

s 704 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 18 sch 1
reloc 2012 No. 20 s 314

Applying div 4 for approval

s 705 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 64 s 174 sch; 2005 No. 8 s 2 sch; 2012 No. 20 s 281 sch 2
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

PART 7—COMPENSATION PROVISIONS

pt hdg (prev pt 18 hdg) ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc and renum 2012 No. 20 s 314

Division 1—Preliminary

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Definitions for pt 7

prov hdg amd 2012 No. 20 s 323 sch 3
s 706 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314
def *relevant act* amd 2000 No. 36 s 18 sch 1; 2012 No. 20 s 323 sch 3

Division 2—General principles

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Native title compensation

s 707 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2000 No. 36 s 11; 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Agreement for compensation

s 708 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 241
reloc 2012 No. 20 s 314

Application for compensation

s 709 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Compensation provided in non-monetary form

s 710 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Conditions of agreement or compensation decision

s 711 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Compensation trust decisions

s 712 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

State's right to be heard

s 713 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Division 3—Payment of compensation in particular circumstances

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Compensation before relevant act relating to mining claim or mining lease if registered native title body corporate

s 714 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Compensation before relevant act relating to mining claim or mining lease if registered native title claimant

s 715 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314
amd 2013 No. 10 s 193 sch 1

Compensation after relevant act relating to mining claim or mining lease

s 716 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Compensation after relevant act relating to other mining tenement if registered native title body corporate

s 717 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Compensation after relevant act relating to other mining tenement if registered native title claimant

s 718 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

State liable to pay compensation in particular circumstances

s 719 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Division 4—Amounts held in trust

div hdg ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

Repayment of amount held in trust for compensation

s 720 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Dealing with amount held in trust for compensation—determination of native title

s 721 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
amd 2012 No. 20 s 125 sch 1
reloc 2012 No. 20 s 314

Dealing with amount held in trust for compensation—no applicable provision

s 722 ins 1998 No. 38 s 9 (amd 1999 No. 35 s 55)
reloc 2012 No. 20 s 314

SCHEDULE 2—DICTIONARY

sch 2 Note—definitions for this Act were originally located in s 5
prev sch 2 (prev sch 2) amd R4 (RA s 7(1)(k))
om 1998 No. 10 s 446 sch 4
pres sch 2 ins 2000 No. 64 s 168
renum 2010 No. 31 s 466(5)
def *abandoned mine* ins 2012 No. 20 s 125 sch 1
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 143(3)
def *access agreement* ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
def *acquired land* ins 2012 No. 20 s 64(1)
def *Act relating to mining* om from prev s 5 1995 No. 21 s 5(1)
def *adjacent lease* ins 2004 No. 25 s 1029(2)
def *adjoining lots* ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
def *ADR* ins 2010 No. 31 s 466(2)
def *advanced activity* ins 2010 No. 31 s 466(2)

Endnotes

- def ***affected land*** ins 2008 No. 56 s 78
sub 2012 No. 20 s 323 sch 3
- def ***aggrieved person*** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def ***ALA*** ins 2012 No. 20 s 64(1)
- def ***applicant*** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def ***applicant***, for part 7AAC, ins 2009 No. 3 s 517(1)
sub 2010 No. 31 s 528(1)–(2)
om 2012 No. 20 s 323 sch 3
- def ***application*** ins 2013 No. 10 s 78(2)
- def ***application notice*** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def ***application transfer*** ins 2012 No. 20 s 244(2)
- def ***apply*** ins 2012 No. 20 s 244(2)
- def ***appropriately qualified*** ins 2012 No. 20 s 244(2)
- def ***approval*** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def ***approved form*** ins 1999 No. 35 s 13(2)
reloc 2000 No. 64 s 61(6)
- def ***approved opal or gem mining area*** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
amd 2012 No. 20 s 323 sch 3
- def ***area*** om from prev s 5 1993 No. 70 s 804 sch
ins 2004 No. 25 s 1029(2)
amd 2009 No. 3 s 517(2)–(3); 2010 No. 31 s 466(3)–(4); 2012 No. 20 ss
64(2), 125 sch 1
- def ***assessable transfer*** ins 2012 No. 20 s 244(2)
amd 2012 No. 20 s 323 sch 3
- def ***assessment criteria*** ins 2010 No. 31 s 528(2)
amd 2012 No. 20 s 323 sch 3
- def ***associated agreement*** ins 2012 No. 20 s 244(2)
- def ***At Risk agreement*** ins 1998 No. 27 s 3
reloc 2000 No. 64 s 61(6)
- def ***Aurukun agreement*** ins 2006 No. 31 s 6(2)
sub 2013 No. 10 s 78(1)–(2)
- def ***Aurukun project*** ins 2006 No. 31 s 6(2)
amd 2013 No. 10 s 78(3)
- def ***authorised activity*** ins 2004 No. 25 s 1029(2)
amd 2009 No. 3 s 517(4); 2010 No. 31 s 528(3); 2012 No. 20 s 64(3)
- def ***authorised officer*** ins 2013 No. 10 s 143(2)
- def ***authorised person*** ins 2012 No. 20 s 125 sch 1
amd 2012 No. 20 s 323 sch 3; 2013 No. 10 s 143(3)
- def ***authority to prospect*** ins 2004 No. 25 s 1029(2)
- def ***block*** reloc 2000 No. 64 s 61(6)

- def **building** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def **cadastral surveyor** ins 2003 No. 71 s 81
- def **call for EP (coal tenders)** ins 2013 No. 10 s 78(2)
- def **call for EP (non-coal) tenders** ins 2013 No. 10 78(2)
- def **certificate of public notice** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2013 No. 10 s 143(1)–(2))
- def **Cherwell Creek** ins 2012 No. 20 s 125 sch 1
amd 2012 No. 20 s 323 sch 3
- def **chief executive (planning)** ins 1993 No. 70 s 804 sch
reloc 2000 No. 64 s 61(6)
amd 2004 No. 4 s 57 sch
om 2009 No. 36 s 872 sch 2
- def **closing day (native title issues)** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **closing time** ins 2013 No. 10 s 78(2)
- def **coal exploration tenement** ins 2004 No. 25 s 1029(2)
- def **coal mining lease** ins 2004 No. 25 s 1029(2)
- def **coal or oil shale mining lease** ins 2005 No. 3 s 105 sch
- def **coal or oil shale mining tenement** ins 2004 No. 25 s 1029(2)
- def **coal seam gas** ins 2004 No. 25 s 1029(2)
- def **Collingwood Park State guarantee** or **guarantee** ins 2008 No. 56 s 78
sub 2012 No. 20 s 323 sch 3
- def **combined hearing** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **commencement day** ins 2012 No. 20 s 125 sch 1
amd 2012 No. 20 s 323 sch 3
- def **Commonwealth Native Title Act** ins 1998 No. 38 s 7
reloc 2000 No. 64 s 61(6)
- def **company** sub 1995 No. 21 s 5(1)–(2)
reloc 2000 No. 64 s 61(6)
amd 2001 No. 45 s 29 sch 3
- def **compensation agreement** ins 2002 No. 63 s 7
amd 2004 No. 25 s 1029(3); 2012 No. 20 s 323 sch 3
- def **compensation application** ins 2002 No. 63 s 7
amd 2004 No. 25 s 1029(4); 2012 No. 20 s 323 sch 3
- def **compensation decision** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **compensation liability** ins 2010 No. 31 s 466(2)
sub 2012 No. 20 s 125 sch 1
- def **compensation trust decision** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **compliance direction** ins 2010 No. 31 s 466(2)

Endnotes

- def **condition** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def **conduct and compensation agreement** ins 2010 No. 31 s 466(2)
- def **conduct and compensation agreement requirement** ins 2010 No. 31 s 466(2)
- def **confidential information** ins 2011 No. 20 s 179
amd 2012 No. 20 s 323 sch 3
- def **consultation and negotiation parties** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **consultation period** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **consultation period advice day** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **consultation start day** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
om 2005 No. 68 s 150 sch
- def **contaminated land** ins 1995 No. 21 s 5(2)
om from prev s 5 2000 No. 64 s 61(2)
- def **contract conditions** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
sub 2012 No. 20 s 323 sch 3
- def **coordination arrangement** ins 2004 No. 25 s 1029(2)
- def **credit provider** ins 1997 No. 17 s 74 sch
reloc 2000 No. 64 s 61(6)
sub 2010 No. 16 s 35 sch
- def **CSG assessment criteria** ins 2004 No. 25 s 1029(2)
- def **CSG statement** ins 2004 No. 25 s 1029(2)
- def **dealing** ins 2012 No. 20 s 244(2)
- def **decision** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
amd 2012 No. 20 s 323 sch 3
- def **deferral agreement** ins 2012 No. 20 s 125 sch 1
- def **deputy mining registrar** ins 2005 No. 8 s 45(1)
om 2013 No. 10 s 143(1)
- def **designated CSG product** ins 2004 No. 25 s 1029(2)
- def **development** ins 2005 No. 8 s 45(1)
sub 2009 No. 36 s 872 sch 2
- def **development plan** ins 2004 No. 25 s 1029(2)
- def **Director-General** sub 1991 No. 97 s 3 sch 2
om from prev s 5 1995 No. 21 s 5(1)
- def **district prospecting permit** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def **educational institution** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def **EIS** ins 2006 No. 59 s 85 sch

- def **election notice** ins 2010 No. 31 s 466(2)
- def **eligible claimant** ins 2010 No. 31 s 466(2)
- def **eligible person** sub 1995 No. 21 s 5(1)–(2)
reloc 2000 No. 64 s 61(6)
amd 2003 No. 19 s 3 sch
sub 2006 No. 31 s 6(1)–(2)
amd 2009 No. 17 s 331 sch 1; 2013 No. 10 s 78(4); 2012 No. 20 s 323 sch 3
- def **enter** ins 1995 No. 21 s 5(2)
reloc 2000 No. 64 s 61(6)
- def **entry notice** ins 2010 No. 31 s 466(2)
- def **environment** ins 1995 No. 21 s 5(2)
amd 2000 No. 64 s 61(4)
reloc 2000 No. 64 s 61(6)
- def **environmental authority** ins 2012 No. 16 s 78 sch
- def **environmental authority (exploration)** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
om 2012 No. 16 s 78 sch
- def **environmental authority (mineral development)** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
om 2012 No. 16 s 78 sch
- def **environmental authority (mining claim)** ins 2000 No. 64 s 61(3)
reloc 2000 No. 64 s 61(6)
om 2012 No. 16 s 78 sch
- def **environmental authority (mining lease)** ins 2000 No. 64 s 61(3)
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7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

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4.8(3)	55(4)
4.9	56
4.10	57
4.10(1A)	57(2)
4.10(1B)	57(3)
4.10(1C)	57(4)
4.10(2)	57(5)
4.10(2A)	57(6)
4.10(2B)	57(7)
4.10(2C)	57(8)
4.10(2D)	57(9)
4.10(3)	57(10)
4.11	58
4.12	59
4.13	60
4.14	61
4.14(1A)	61(2)
4.14(2)	61(3)
4.14(3)	61(4)
4.14(4)	61(5)
4.14(5)	61(6)
4.15	62
4.16	63

Endnotes

Previous	Renumbered as
4.17	64
4.17(1A)	64(2)
4.17(1AA)	64(3)
4.17(1B)	64(4)
4.17(2)	64(5)
4.17(3)	64(6)
4.17(4)	64(7)
4.17(5)	64(8)
4.18	65
4.18A	66
4.18B	67
4.18C	68
4.18D	69
4.18E	70
4.19	71
4.20	72
4.21	73
4.22	74
4.23	75
4.24	76
4.25	77
4.25(1A)	77(2)
4.25(2)	77(3)
4.25(2A)	77(4)
4.25(3)	77(5)
4.25(4)	77(6)
4.25(5)	77(7)
4.25(6)	77(8)
4.26	78
4.27	79
4.28	80
4.29	81
4.30	82
4.31	83
4.31(2A)	83(3)
4.31(2B)	83(4)
4.31(2C)	83(5)
4.31(3)	83(6)
4.31(4)	83(7)
4.31(6)	83(8)
4.31(6A)	83(9)
4.31(7)	83(10)
4.31(8)	83(11)
4.31(9)	83(12)
4.31(9A)	83(13)
4.31(9B)	83(14)
4.31(9C)	83(15)

Previous	Renumbered as
4.31(10)	.83(16)
4.32	.84
4.33	.85
4.33(1A)	.85(2)
4.33(2)	.85(3)
4.33(2A)	.85(4)
4.33(3)	.85(5)
4.33(4)	.85(6)
4.33(5)	.85(7)
4.33(6)	.85(8)
4.33(7)	.85(9)
4.33(8)	.85(10)
4.33(9)	.85(11)
4.33(10)	.85(12)
4.33(11)	.85(13)
4.34	.86
4.34(5A)	.86(6)
4.34(6)	.86(7)
4.34(7)	.86(8)
4.35	.87
4.35(1A)	.87(2)
4.35(2)	.87(3)
4.36	.88
4.37	.89
4.38	.90
4.39	.91
4.40	.92
4.41	.93
4.42	.94
4.43	.95
4.43(1A)	.95(2)
4.43(2)	.95(3)
4.43(3)	.95(4)
4.43(4)	.95(5)
4.43(5)	.95(6)
4.43(6)	.95(7)
4.43(7)	.95(8)
4.44	.96
4.44(2A)	.96(3)
4.44(3)	.96(4)
4.44(4)	.96(5)
4.44(4A)	.96(6)
4.44(5)	.96(7)
4.44(6)	.96(8)
4.44(7)	.96(9)
4.44(8)	.96(10)
4.45	.97

Endnotes

Previous	Renumbered as
4.45(1A)	97(2)
4.45(2)	97(3)
4.46	98
4.47	99
4.48	100
4.49	101
4.50	102
4.51	103
4.52	104
4.53	105
4.53(1A)	105(2)
4.53(2)	105(3)
4.53(3)	105(4)
4.53(4)	105(5)
4.54	106
4.54(6)	106(5)
4.55	107
4.55(2A)	107(3)
4.55(3)	107(4)
4.55(3A)	107(5)
4.55(4)	107(6)
4.55(5)	107(7)
4.55(6)	107(8)
4.55(7)	107(9)
4.55(8)	107(10)
4.55(9)	107(11)
4.56	108
4.56A	109
4.57	110
4.58	111
4.59	112
4.60	113
4.61	114
4.62	115
4.63	116
4.63A	117
4.63B	118
4.63C	119
4.63D	120
4.64	121
4.64A	122
4.64B	123
4.65	124
4.66	125
4.66(3A)	125(4)
4.66(3B)	125(5)
4.66(3C)	125(6)

Previous	Renumbered as
4.66(3D)	125(7)
4.66(3E)	125(8)
4.66(4)	125(9)
4.66(5)	125(10)
4.66(5A)	125(11)
4.66(6)	125(12)
5.1	126
5.2	127
5.3	128
5.4	129
5.4(1A)	129(2)
5.4(2)	129(3)
5.4(2A)	129(4)
5.4(3)	129(5)
5.4(4)	129(6)
5.4(5)	129(7)
5.4(6)	129(8)
5.4(7)	129(9)
5.4(8)	129(10)
5.4(9)	129(11)
5.4(10)	129(12)
5.4(11)	129(13)
5.4(12)	129(14)
5.4(13)	129(15)
5.4(14)	129(16)
5.5	130
5.6	131
5.7	132
5.8	133
5.9	134
5.10	135
5.11	136
5.12	137
5.12(1A)	137(2)
5.12(2)	137(3)
5.12(3)	137(4)
5.12(4)	137(5)
5.13	138
5.14	139
5.14(1A)	139(2)
5.14(2)	139(3)
5.14(3)	139(4)
5.14(4)	139(5)
5.14(5)	139(6)
5.14(6)	139(7)
5.14(7)	139(8)
5.14A	140

Endnotes

Previous	Renumbered as
5.15	141
5.15A	142
5.15B	143
5.16	144
5.16(1A)	144(2)
5.16(1B)	144(3)
5.16(2)	144(4)
5.16(3)	144(5)
5.16(4)	144(6)
5.16(4A)	144(7)
5.16(5)	144(8)
5.16(6)	144(9)
5.16(7)	144(10)
5.16(8)	144(11)
5.16(8A)	144(12)
5.16(9)	144(13)
5.16(10)	144(14)
5.16(11)	144(15)
5.16(12)	144(16)
5.17	145
5.18	146
5.19	147
5.20	148
5.21	149
5.22	150
5.23	151
5.23(1A)	151(2)
5.23(4A)	151(5)
5.23(5)	151(6)
5.23(6)	151(7)
5.24	152
5.24(1A)	152(2)
5.24(2)	152(3)
5.25	153
5.26	154
5.27	155
5.28	156
5.29	157
5.30	158
5.31	159
5.32	160
5.33	161
5.33(1A)	161(2)
5.33(2)	161(3)
5.33(3)	161(4)
5.33(4)	161(5)
5.33(5)	161(6)

Previous	Renumbered as
5.33(6)	161(7)
5.34	162
5.35	163
5.35A	164
5.36	165
5.36A	166
5.37	167
5.38	168
5.39	169
5.39A	170
5.39B	171
5.39C	172
5.39D	173
5.39E	174
5.39F	175
5.40	176
5.41	177
5.42	178
6.1	179
6.2	180
6.3	181
6.3(1A)	181(2)
6.3(2)	181(3)
6.3(3)	181(4)
6.3(3A)	181(5)
6.3(3B)	181(6)
6.3(3C)	181(7)
6.3(4)	181(8)
6.3(4A)	181(9)
6.3(4B)	181(10)
6.3(5)	181(11)
6.3(6)	181(12)
6.3(7)	181(13)
6.3(8)	181(14)
6.3(9)	181(15)
6.3(10)	181(16)
6.3(11)	181(17)
6.3(12)	181(18)
6.3(12A)	181(19)
6.3(13)	181(20)
6.3(14)	181(21)
6.3A	182
6.4	183
6.5	184
6.6	185
6.7	186
6.7(1A)	186(2)

Endnotes

Previous	Renumbered as
6.7(2)	186(3)
6.7(3)	186(4)
6.7(4)	186(5)
6.7(5)	186(6)
6.8	187
6.9	188
6.10	189
6.11	190
6.11(5)	190(4)
6.11(6)	190(5)
6.11(7)	190(6)
6.11(8)	190(7)
6.11(9)	190(8)
6.11(10)	190(9)
6.12	191
6.13	192
6.14	193
6.14(1A)	193(2)
6.14(2)	193(3)
6.14(3)	193(4)
6.14(4)	193(5)
6.14(5)	193(6)
6.14(6)	193(7)
6.14(7)	193(8)
6.15	194
6.15A	195
6.15B	196
6.16	197
6.17	198
6.17(1A)	198(2)
6.17(2)	198(3)
6.17(3)	198(4)
6.17(4)	198(5)
6.17(4A)	198(6)
6.17(5)	198(7)
6.17(6)	198(8)
6.17(7)	198(9)
6.18	199
6.18(1A)	199(2)
6.18(2)	199(3)
6.19	200
6.20	201
6.21	202
6.22	203
6.23	204
6.24	205
6.25	206

Previous	Renumbered as
6.26	207
6.26A	208
6.27	209
6.28	210
6.28(3A)	210(4)
6.28(3B)	210(5)
6.28(3C)	210(6)
6.28(4)	210(7)
6.28(5)	210(8)
6.28(5A)	210(9)
6.28(5B)	210(10)
6.28(6)	210(11)
6.28(7)	210(12)
6.29	211
6.29A	212
6.30	213
6.30A	214
6.31	215
6.32	216
6.33	217
6.33A	218
6.33B	219
6.33C	220
6.33D	221
6.33E	222
6.33F	223
6.34	224
6.35	225
6.36	226
6.36(2A)	226(3)
6.36(3)	226(4)
6.37	227
6.38	228
6.38A	229
6.38B	230
6.39	231
6.39(3A)	231(4)
6.39(4)	231(5)
6.39(5)	231(6)
7.1	232
7.2	233
7.3	234
7.4	235
7.5	236
7.5A	237
7.6	238
7.7	239

Endnotes

Previous	Renumbered as
7.8	240
7.9	241
7.9(1A)	241(2)
7.9(1B)	241(3)
7.9(1C)	241(4)
7.9(2)	241(5)
7.9(2A)	241(6)
7.9(2B)	241(7)
7.9(2C)	241(8)
7.9(2D)	241(9)
7.9(3)	241(10)
7.10	242
7.11	243
7.12	244
7.13	245
7.13(1A)	245(2)
7.13(2)	245(3)
7.13(3)	245(4)
7.14	246
7.15	247
7.15A	248
7.15B	249
7.16	250
7.17	251
7.18	252
7.18(1A)	252(2)
7.18(1AA)	252(3)
7.18(1B)	252(4)
7.18(2)	252(5)
7.18(2A)	252(6)
7.18(3)	252(7)
7.18(4)	252(8)
7.18(5)	252(9)
7.18(6)	252(10)
7.18(7)	252(11)
7.18A	253
7.19	254
7.19A	255
7.19B	256
7.19C	257
7.19D	258
7.19E	259
7.20	260
7.21	261
7.21A	262
7.21B	263
7.21C	264

Previous	Renumbered as
7.22	265
7.23	266
7.24	267
7.25	268
7.25(1A)	268(2)
7.25(2)	268(3)
7.25(2A)	268(4)
7.25(3)	268(5)
7.25(4)	268(6)
7.25(5)	268(7)
7.25(6)	268(8)
7.25(7)	268(9)
7.25(8)	268(10)
7.25(9)	268(11)
7.26	269
7.26(2A)	269(3)
7.26(3)	269(4)
7.26(3)(ga)	269(4)(h)
7.26(3)(h)	269(4)(i)
7.26(3)(i)	269(4)(j)
7.26(3)(j)	269(4)(k)
7.26(3)(k)	269(4)(l)
7.26(3)(l)	269(4)(m)
7.26(4)	269(5)
7.27	270
7.28	271
7.29	272
7.30	273
7.31	274
7.32	275
7.33	276
7.33(1)(ha)	276(1)(i)
7.33(1)(i)	276(1)(j)
7.33(1)(j)	276(1)(k)
7.33(1)(k)	276(1)(l)
7.33(1)(l)	276(1)(m)
7.33(1)(m)	276(1)(n)
7.33(1)(n)	276(1)(o)
7.33(1)(o)	276(1)(p)
7.33(4)	276(3)
7.33(5)	276(4)
7.34	277
7.34(2A)	277(3)
7.34(2B)	277(4)
7.34(2C)	277(5)
7.34(3)	277(6)
7.34(5)	277(7)

Endnotes

Previous	Renumbered as
7.34(5A)	277(8)
7.34(5B)	277(9)
7.34(6)	277(10)
7.34(7)	277(11)
7.34(8)	277(12)
7.34(8A)	277(13)
7.34(9)	277(14)
7.35	278
7.36	279
7.36(1A)	279(2)
7.36(2)	279(3)
7.36(2A)	279(4)
7.36(3)	279(5)
7.37	280
7.38	281
7.39	282
7.39(4A)	282(5)
7.39(5)	282(6)
7.39(6)	282(7)
7.39(7)	282(8)
7.40	283
7.40(1A)	283(2)
7.40(2)	283(3)
7.41	284
7.42	285
7.43	286
7.43(3A)	286(4)
7.43(4)	286(5)
7.43(5)	286(6)
7.43(6)	286(7)
7.43(7)	286(8)
7.43(8)	286(9)
7.43(9)	286(10)
7.44	287
7.44A	288
7.46	289
7.47	290
7.47(1A)	290(2)
7.47(2)	290(3)
7.47(3)	290(4)
7.47(4)	290(5)
7.47(5)	290(6)
7.47(6)	290(7)
7.47(6A)	290(8)
7.47(7)	290(9)
7.48	291
7.48A	292

Previous	Renumbered as
7.48B	293
7.49	294
7.49	294
7.50	295
7.50(3A)	295(4)
7.50(3B)	295(5)
7.50(3C)	295(6)
7.50(4)	295(7)
7.50(4A)	295(8)
7.50(4B)	295(9)
7.50(5)	295(10)
7.50(6)	295(11)
7.50(6A)	295(12)
7.50(6B)	295(13)
7.50(6C)	295(14)
7.50(6D)	295(15)
7.50(7)	295(16)
7.50(8)	295(17)
7.51	296
7.52	297
7.53	298
7.53(1A)	298(2)
7.53(2)	298(3)
7.53(3)	298(4)
7.53(3A)	298(5)
7.53(4)	298(6)
7.53(4A)	298(7)
7.53(5)	298(8)
7.53(6)	298(9)
7.53(7)	298(10)
7.53(8)	298(11)
7.54	299
7.54(1A)	299(2)
7.54(1B)	299(3)
7.54(2)	299(4)
7.54(2A)	299(5)
7.54(2B)	299(6)
7.54(2C)	299(7)
7.54(3)	299(8)
7.54(4)	299(9)
7.54(5)	299(10)
7.54(6)	299(11)
7.55	300
7.55(2A)	300(3)
7.55(3)	300(4)
7.55(3A)	300(5)
7.55(4)	300(6)

Endnotes

Previous	Renumbered as
7.55(4A)	300(7)
7.55(5)	300(8)
7.55(6)	300(9)
7.55(7)	300(10)
7.55(8)	300(11)
7.56	301
7.56(1A)	301(2)
7.56(2)	301(3)
7.57	302
7.58	303
7.59	304
7.60	305
7.61	306
7.62	307
7.62(1A)	307(2)
7.62(2)	307(3)
7.62(3)	307(4)
7.63	308
7.63(6)	308(5)
7.64	309
7.64(2A)	309(3)
7.64(3)	309(4)
7.64(3A)	309(5)
7.64(4)	309(6)
7.64(5)	309(7)
7.64(5A)	309(8)
7.64(6)	309(9)
7.64(6A)	309(10)
7.64(7)	309(11)
7.64(8)	309(12)
7.64(9)	309(13)
7.65	310
7.66	311
7.67	312
7.67A	313
7.67B	314
7.68	315
7.68(1AA)	315(2)
7.68(1AB)	315(3)
7.68(1A)	315(4)
7.68(1B)	315(5)
7.68(2)	315(6)
7.68(3)	315(7)
7.68(3A)	315(8)
7.68(4)	315(9)
7.68(5)	315(10)
7.69	316

Previous	Renumbered as
7.70	317
7.70(3A)	317(4)
7.70(3B)	317(5)
7.70(3C)	317(6)
7.70(3D)	317(7)
7.70(3E)	317(8)
7.70(4)	317(9)
7.70(5)	317(10)
7.70(5A)	317(11)
7.70(6)	317(12)
7.71	318
8.1	319
9.1	320
9.1(4A)	320(5)
9.1(5)	320(6)
9.1(6)	320(7)
9.1(7)	320(8)
9.2	321
9.3	322
9.4	323
9.5	324
9.6	325
9.7	326
9.8	327
9.8(3A)	327(4)
9.8(3B)	327(5)
9.8(3C)	327(6)
9.8(3D)	327(7)
9.8(3E)	327(8)
9.8(3F)	327(9)
9.8(4)	327(10)
9.8(5)	327(11)
9.8(6)	327(12)
9.8(7)	327(13)
9.8(8)	327(14)
9.9	328
9.10	329
9.11	330
9.12	331
9.13	332
9.14	333
9.15	334
9.16	335
10.1	336
10.2	337
10.3	338
10.4	339

Endnotes

Previous	Renumbered as
10.5	340
10.6	341
10.7	342
10.7(1)(ba)	342(1)(c)
10.7(1)(c)	342(1)(d)
10.7(1)(d)	342(1)(e)
10.7(1)(e)	342(1)(f)
10.7(1)(f)	342(1)(g)
10.7(1)(g)	342(1)(h)
10.7(1)(h)	342(1)(i)
10.7(1)(i)	342(1)(j)
10.7(1)(j)	342(1)(k)
10.7(1)(k)	342(1)(l)
10.7(1)(l)	342(1)(m)
10.7(1)(m)	342(1)(n)
10.7(1A)	342(2)
10.7(2)	342(3)
10.7(2A)	342(4)
10.7(2B)	342(5)
10.7(2C)	342(6)
10.7(2D)	342(7)
10.7(2E)	342(8)
10.7(2F)	342(9)
10.7(3)	342(10)
10.7(4)	342(11)
10.8	343
10.8(4A)	343(5)
10.8(5)	343(6)
10.8(6)	343(7)
10.8(6A)	343(8)
10.8(6B)	343(9)
10.8(7)	343(10)
10.8(7A)	343(11)
10.8(8)	343(12)
10.8(9)	343(13)
10.8(10)	343(14)
10.9	344
10.9A	345
10.9B	346
10.9C	347
10.9D	348
10.9E	349
10.9F	350
10.9G	351
10.9H	352
10.10	353
10.11	354

Previous	Renumbered as
10.12	355
10.14	356
10.15	357
10.15A	358
10.16	359
10.17	360
10.18	361
10.19	362
10.20	363
10.21	364
10.22	365
10.22(1A)	365(2)
10.22(2)	365(3)
10.22(3)	365(4)
10.22(4)	365(5)
10.22(4A)	365(6)
10.22(5)	365(7)
10.22(6)	365(8)
10.22(7)	365(9)
10.22(8)	365(10)
10.23	366
10.23(1A)	366(2)
10.23(2)	366(3)
10.23(3)	366(4)
10.23(3A)	366(5)
10.23(4)	366(6)
10.23(5)	366(7)
10.23(6)	366(8)
10.23(7)	366(9)
10.24	367
10.25	368
10.26	369
10.27	370
10.28	371
10.28(2A)	371(3)
10.28(2B)	371(4)
10.28(3)	371(5)
10.29	372
10.30	373
10.31	374
10.32	375
10.33	376
10.33(1)(da)	376(1)(e)
10.33(1)(e)	376(1)(f)
10.33(1)(f)	376(1)(g)
10.33(1)(g)	376(1)(h)
10.33(1)(h)	376(1)(i)

Endnotes

Previous	Renumbered as
10.33(1)(i)	376(1)(j)
10.33(1)(j)	376(1)(k)
10.33(1)(k)	376(1)(l)
10.34	377
10.35	378
10.36	379
10.37	380
10.38	381
10.39	382
10.40	383
10.40(1A)	383(2)
10.40(2)	383(3)
10.40(3)	383(4)
10.40(4)	383(5)
10.40(5)	383(6)
10.40(5A)	383(7)
10.40(6)	383(8)
10.40(7)	383(9)
10.41	384
10.41(1A)	384(2)
10.41(2)	384(3)
10.41(3)	384(4)
10.41(4)	384(5)
10.41(5)	384(6)
10.42	385
10.43	386
11.1	387
11.2	388
11.3	389
11.4	390
11.5	391
11.6	392
11.7	393
11.8	394
11.10	395
11.11	396
11.12	397
11.13	398
11.14	399
11.15	400
11.16	401
11.17	402
11.18	403
11.19	404
11.20	405
11.20A	406
11.21	407

Previous	Renumbered as
11.22	408
11.23	409
11.23(3A)	409(4)
11.23(4)	409(5)
11.23(5)	409(6)
11.23(6)	409(7)
11.24	410
11.25	411
11.26	412
11.27	413
11.28	414
11.29	415
11.30	416
11.31	417
11.31(2)(b)	417(2)(a)
11.31(2)(c)	417(2)(b)
11.31(2)(d)	417(2)(c)
11.31(2)(e)	417(2)(d)
11.31(2)(f)	417(2)(e)
11.31(2)(g)	417(2)(f)
11.31(2)(h)	417(2)(g)
11.31(2)(i)	417(2)(h)
11.31(2)(k)	417(2)(i)
11.31(2)(l)	417(2)(j)
11.31(2)(m)	417(2)(k)
11.31(2)(n)	417(2)(l)
11.31(2)(o)	417(2)(m)
11.31(2)(p)	417(2)(n)
11.31(2)(q)	417(2)(o)
11.31(2)(r)	417(2)(p)
11.31(4)	417(3)
11.34	418
schedule 2	
sch 2	sch
2(12)	2(6)
2(12A)	2(7)
2(12B)	2(8)
3(1AA)	3(2)
3(1AB)	3(3)
3(1A)	3(4)
3(1B)	3(5)
3(2)	3(6)
3(3)	3(7)
3(3A)	3(8)
3(3B)	3(9)
3(5)	3(10)

Endnotes

Previous	Renumbered as
3(8)	3(11)
3(10)	3(12)
3(11)	3(13)
3(17)	3(14)
4(5)	4(4)
11	6
11(4A).....	6(5)
11(4B).....	6(6)
11(4C).....	6(7)
11(4D).....	6(8)
11(5)	6(9)
14	7
16	8
17	9
18	10
20	11
21	12

9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor’s note to the text.

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