



Queensland

Petroleum and Other Legislation Amendment Act 2005

Act No. 3 of 2005



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Contents

		Page
Part 1	Preliminary	
1	Short title	10
2	Commencement	10
Part 2	Amendment of Mineral Resources Act 1989	
3	Act amended in pt 2	10
4	Amendment of s 318CN (Use that may be made under mining lease of incidental coal seam gas)	10
5	Amendment of s 318EB (Obligation to lodge proposed later development plan)	10
6	Amendment of s 739 (Definitions for div 6)	11
7	Amendment of s 741 (Unfinished special coal mining lease applications)	11
8	Amendment of s 747 (Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases)	12
8A	Amendment of s 756 (Application of sdiv 8)	12
Part 3	Amendment of Petroleum Act 1923	
9	Act amended in pt 3	12
10	Amendment of s 2 (Definitions)	12
11	Amendment of s 25M (Requirements for making application)	14
12	Amendment of s 25U (Expiry of pt 4 and ending of authorities to prospect)	15
13	Amendment of s 45 (Entitlement to renewal of lease)	15

14	Amendment of s 74J (Penalty relinquishment if work program not completed within extended period)	15
15	Amendment of s 75A (Obligation to decommission pipelines) . . .	16
16	Insertion of new pt 6CA	16
	Division 1 Preliminary	
	75IA Simplified outline of pt 6CA	16
	75IB What is an existing Water Act bore	17
	75IC When an existing Water Act bore is unduly affected . . .	17
	75ID When an existing Water Act bore has an impaired capacity	18
	75IE What are restoration measures	19
	75IF References to 1923 Act petroleum tenure holder in pt 6CA	19
	Division 2 Obligation to make good for existing Water Act bores	
	75IG The make good obligation	20
	75IH Provisions for application of make good obligation. . .	21
	Division 3 Underground water impact reports	
	Subdivision 1 Fixing of trigger threshold for aquifers	
	75II Operation of sdiv 1	21
	75IJ Request for trigger threshold and action on request . . .	21
	75IK Provisions for fixing trigger threshold	22
	75IL Fixed trigger threshold applies for all taking of water necessarily taken as part of petroleum production. . .	23
	Subdivision 2 Lodging report	
	75IM Lodging report	23
	75IN Requirements for report	24
	75IO Exemption from underground water flow model.	25
	Subdivision 3 Consideration of underground water impact report	
	75IP Power to require amendment of report.	26
	75IQ Decision on report	27
	Division 4 Pre-closure report	
	75IR Obligation to lodge pre-closure report	27
	75IS Requirements for report	28
	75IT Power to require amendment of report.	29
	75IU Effect of lodgment of report	29
	Division 5 Monitoring and review reports	
	75IV Operation of div 5.	30

	75IW	Obligation to lodge monitoring reports	30
	75IX	Obligation to lodge review reports	31
	75IY	Effect of lodgment of review report.	32
	75IZ	Chief executive's power to change frequency of reports	32
	75IZA	Chief executive's power to change reporting days . . .	32
	75IZB	Power to require amendment of review report	33
	Division 6	Complying with make good obligation	
	Subdivision 1	Obligation to negotiate	
	75IZC	1923 Act petroleum tenure holder's obligation to negotiate	33
	Subdivision 2	Tribunal decision on how the obligation must be complied with	
	75IZD	Application of sdiv 2	34
	75IZE	Applying to tribunal	34
	75IZF	Provisions for making decision	34
	75IZG	Provisions for deciding compensation	35
	Subdivision 3	Miscellaneous provisions	
	75IZH	Make good agreement or tribunal's decision binds successors and assigns	36
	75IZI	Reviews by tribunal	37
	75IZJ	Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation	37
	75IZK	Advice from Water Act regulator.	38
17		Amendment of s 75J (Requirements for drilling well).	38
18		Amendment of s 75L (Restrictions on making conversion)	38
19		Amendment of s 75Q (Transfer of water observation bore or water supply bore to landowner)	38
20		Amendment of s 75R (Transfer of well to holder of geothermal exploration permit or mining tenement)	39
21		Replacement of s 75S (Transfer of water observation bore to 1923 Act petroleum tenure holder).	39
	75S	Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder. . .	39
22		Amendment of s 75U (Obligation to decommission)	39
23		Insertion of new pt 6D, div 5.	40
	Division 5	Water monitoring authorities	
	Subdivision 1	Obtaining water monitoring authority	
	75WA	Who may apply for water monitoring authority	40
	75WB	Requirements for making application	41

	75WC	Deciding application for water monitoring authority . .	41
	Subdivision 2 Key authorised activities		
	75WD	Operation of sdiv 2	42
	75WE	Water monitoring activities	42
	75WF	Limited right to take or interfere with underground water	42
	75WG	Authorisation for Water Act.	43
	75WH	Water Act not otherwise affected	43
	75WI	Restriction on carrying out authorised activities.	43
	75WJ	No right to petroleum discovered	43
	Subdivision 3 Miscellaneous provisions		
	75WK	Term of authority	44
	75WL	Provision for who is the authority holder if only 1 related petroleum tenure	44
	75WM	Additional condition of relevant petroleum tenure . . .	44
	75WN	Amending water monitoring authority by application .	44
24		Amendment of s 76R (Restriction)	45
25		Amendment of s 76W (Applicant's obligations)	45
26		Amendment of s 76X (Minister may require further negotiation) .	46
27		Amendment of s 77 (Submissions by coal or oil shale exploration tenement holder)	46
28		Omission of pt 6F, div 3, sdivs 2 and 3	46
29		Amendment of s 77O (Requirement for giving of copy of relinquishment report)	46
30		Amendment of s 77X (Deciding amendment application)	47
31		Replacement of pt 6F, div 6 (Proposed later development plans)	47
	Division 6 Additional provisions for development plans		
	Subdivision 1 Additional requirements for proposed later development plans		
	77ZA	Operation of sdiv 1	47
	77ZB	Statement about interests of coal or oil shale exploration tenement holder	47
	77ZC	Requirement to optimise petroleum production	48
	77ZD	Consistency with coal or oil shale mining lease, development plan and relevant coordination arrangement	48
	Subdivision 2 Other additional provisions for proposed later development plans		
	77ZE	Application of sdiv 2	48
	78	Additional criteria for approval	48

32	Amendment of s 78B (Confidentiality obligations)	49
33	Amendment of s 78F (Minister's power to require additional security)	49
34	Amendment of s 78M (Requirement for entry notice to carry out authorised activities).	49
35	Amendment of s 79P (General liability to compensate)	49
36	Amendment of s 80A (Petroleum register)	50
37	Amendment of s 80J (Deciding application).	50
38	Amendment of s 80K (Criteria for decision)	50
39	Amendment of s 80T (Types of noncompliance action that may be taken)	50
40	Amendment of s 103 (Recovery of unpaid amounts)	50
41	Amendment of s 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act, s 29 notice has been given)	51
42	Insertion of new pt 10, sdiv 9A	51
	Subdivision 9A Provisions for existing Water Act bores	
	165A Exemption from, or deferral of, reporting provisions for existing 1923 Act petroleum tenure holders	51
	165B Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day.	52
43	Amendment of s 181 (Confidentiality obligations)	52
44	Insertion of new pt 11	53
	Part 11 Transitional provisions for Petroleum and Other Legislation Amendment Act 2005	
	183 S 86 water bores	53
	184 Decommissioning wells and bores	53
45	Amendment of schedule.	53
Part 4	Amendment of Petroleum and Gas (Production and Safety) Act 2004	
46	Act amended in pt 4	54
47	Amendment of s 11 (Meaning of LPG and fuel gas)	54
48	Amendment of s 78A (Penalty relinquishment if work program not completed within extended period).	55
49	Amendment of s 89 (Applying for potential commercial area)	55
50	Amendment of s 117 (Who may apply)	55
51	Amendment of s 121 (Requirements for grant)	55
52	Amendment of s 227 (Storage rent payable by current owner)	56
53	Amendment of s 234 (Arrangement to coordinate petroleum activities)	56

54	Amendment of s 236 (Ministerial approval of proposed coordination arrangement)	58
55	Amendment of s 246 (When an existing Water Act bore is unduly affected)	58
56	Amendment of s 250 (The make good obligation)	58
57	Amendment of s 251 (Provisions for application of make good obligation)	59
58	Amendment of s 255 (Fixed trigger threshold applies for all underground water rights)	59
59	Amendment of s 257 (Requirements for report)	59
60	Amendment of s 261 (Obligation to lodge pre-closure report)	60
61	Amendment of s 264 (Effect of lodgment of report)	61
62	Amendment of s 273 (Application of sdiv 2)	61
63	Amendment of s 274 (Applying to tribunal)	61
64	Amendment of s 275 (Provisions for making decision)	62
65	Amendment of s 277 (Make good agreement or tribunal's decision binds successors and assigns)	62
66	Amendment of s 281 (Requirements for drilling petroleum well)	62
67	Amendment of s 292 (Obligation to decommission)	62
68	Amendment of s 306 (Content requirements for CSG statement)	63
69	Amendment of s 378 (Applied provisions for making and deciding renewal application)	63
70	Amendment of s 386 (Requirements for consultation with particular coal or oil shale mining tenement holders)	64
71	Amendment of s 531 (General liability to compensate)	64
72	Amendment of s 546 (End of tenure report)	65
73	Amendment of s 559 (Obligation to decommission pipelines)	65
74	Amendment of s 569 (Prohibited dealings)	66
75	Amendment of s 573 (Deciding application)	66
76	Amendment of s 574 (Criteria for decision)	66
77	Amendment of s 576 (Requirements for making surrender application)	66
78	Amendment of s 589 (Recovery of unpaid amounts)	67
79	Replacement of s 591 (General exemptions from petroleum royalty)	67
	591 General exemptions from petroleum royalty	67
80	Replacement of s 591A (Exemption for production testing)	68
	591A Exemption for production testing	68
81	Amendment of s 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)	69

82	Amendment of s 670 (What is an operating plant)	70
83	Amendment of s 673 (Who is the operator of an operating plant)	70
84	Amendment of s 674 (Requirement to have safety management plan)	70
85	Amendment of s 675 (Content requirements for safety management plans)	71
86	Amendment of s 687 (Who is the executive safety manager of an operating plant)	72
87	Insertion of new ch 9, pt 4, div 7	72
	Division 7 Obligation to comply with safety requirements and instructions	
	708A Offence not to comply with safety requirement	72
	708B Chief inspector may issue safety alerts and instructions	72
88	Amendment of s 724 (Types of gas device)	74
89	Amendment of s 728 (Who may apply)	74
90	Replacement of s 728B (Interim licence or authorisation)	74
	728B Interim licence or authorisation	74
91	Amendment of s 876 (Conversion on 2004 Act start day)	75
92	Amendment of s 881 (Additional conditions for renewal application)	75
93	Insertion of new s 911A	75
	911A Provision for continuance of 1923 Act make good obligation	76
94	Amendment of s 926 (Provisions for petroleum royalty)	76
95	Amendment of s 927 (Corresponding approvals and decisions under 1923 Act for a converted petroleum authority)	76
96	Amendment of s 931 (References in Acts and documents to 1923 Act)	77
97	Omission of s 935 (Continuation of petroleum royalty exemption for flaring or venting under 1923 Act)	77
98	Amendment of s 937 (Existing operating plant)	77
99	Insertion of new ch 15, pt 5	77
	Part 5 Transitional provisions for Petroleum and Other Legislation Amendment Act 2005	
	938A Pipeline licences	78
	938B Requests for pipeline licences	78
	938C 1923 Act water bores	78
	938D Decommissioning wells and bores	79
100	Amendment of sch 2 (Dictionary)	79

Part 5	Amendment of Water Act 2000	
101	Act amended in pt 5	79
102	Amendment of s 203 (Definitions for pt 6)	80
103	Amendment of s 206 (Applying for a water licence)	80
104	Amendment of s 227 (Cancelling water licence)	80
Part 6	Minor amendments	
105	Minor amendments.	81
Schedule	Minor amendments of Acts	82
	Coal Mining Safety and Health Act 1999	82
	Environmental Protection Act.	82
	Forestry Act 1959.	83
	Mineral Resources Act 1989	83
	Petroleum Act 1923	84
	Petroleum and Gas (Production and Safety) Act 2004.	88



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Petroleum and Other Legislation Amendment Act 2005

Act No. 3 of 2005

**An Act to amend the *Petroleum Act 1923*, and for other
purposes**

[Assented to 3 March 2005]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Petroleum and Other Legislation Amendment Act 2005*.

2 Commencement

Section 7 is taken to have commenced on 12 October 2004.

Part 2 Amendment of Mineral Resources Act 1989**3 Act amended in pt 2**

This part amends the *Mineral Resources Act 1989*.

4 Amendment of s 318CN (Use that may be made under mining lease of incidental coal seam gas)

Section 318CN(2), examples, fourth dot point, after ‘the power’—

insert—

‘or supplying the power to a transmission grid as defined under the *Electricity Act 1994*, section 6’.

5 Amendment of s 318EB (Obligation to lodge proposed later development plan)

Section 318EB(5)—

omit, insert—

- ‘(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 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.’.

6 Amendment of s 739 (Definitions for div 6)

Section 739, definition *mineral hydrocarbon mining lease*, after ‘mining leases’—

insert—

‘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’.

7 Amendment of s 741 (Unfinished special coal mining lease applications)

- (1) Section 741(3) and (4)—
renumber as section 741(4) and (5).
- (2) Section 741(2)—
omit, insert—
- ‘(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*.’.

8 Amendment of s 747 (Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases)

Section 747(2)(b), ‘chapter 9’—

omit, insert—

‘chapters 9 and 10, and to the extent they apply for chapters 9 and 10, chapters 11 to 14’.

8A Amendment of s 756 (Application of sdiv 8)

Section 756—

insert—

‘(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.’.

Part 3 Amendment of Petroleum Act 1923

9 Act amended in pt 3

This part amends the *Petroleum Act 1923*.

10 Amendment of s 2 (Definitions)

(1) Section 2, definitions *relevant environmental authority* and *water supply bore*—

omit.

(2) Section 2—

insert—

'2004 Act petroleum authority see the 2004 Act, section 18(2).

existing Water Act bore see section 75IB.

impaired capacity, for an existing Water Act bore, see section 75ID.

interfere with includes tamper.

make good agreement see section 75IZC(1).

make good obligation, for an existing Water Act bore, see section 75IG.

monitoring report means a report under section 75IW.

relevant environmental authority, for a 1923 Act petroleum tenure or water monitoring authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the tenure or authority that are environmentally relevant activities under the Environmental Protection Act.

restoration measures, for an existing Water Act bore, see section 75IE.

review report means a report under section 75IX.

trigger threshold, for an aquifer, means the trigger threshold for the aquifer under part 6CA, division 3, subdivision 1.

underground water means water that occurs naturally in, or is introduced artificially into, an aquifer, whether or not it would, if tapped by a bore, flow naturally to the surface.

underground water flow model, for existing Water Act bores, means an underground water flow model that complies with section 75IN.

underground water impact report means an underground water impact report lodged under section 75IM, as amended by any review report.

unduly affected for an existing Water Act bore, see section 75IC.

water monitoring authority means an authority granted under section 75WC.

water supply bore means a water bore drilled under section 86 with the permission of the Minister.’.

- (3) Section 2, definition *authorised activity*, item 1—

omit, insert—

‘1 An *authorised activity*, for a 1923 Act petroleum tenure or water monitoring authority, is an activity that its holder is, under this Act, the tenure or authority, entitled to carry out in relation to the tenure or authority.’.

- (4) Section 2, definition *owner*, item 3—

renumber as item 4.

- (5) Section 2, definition *owner*—

insert—

‘3 The *owner* of an existing Water Act bore is—

- (a) the person who owns the land on which the bore is located; or
- (b) any person who holds a lease over the land.’.

- (6) Section 2, definition *well*, item 3, paragraph (c)—

renumber as paragraph (d).

- (7) Section 2, definition *well*, item 3—

insert—

‘(c) an existing Water Act bore;’.

- (8) Section 2, definition *work program*, paragraph (b), ‘its work program’—

omit, insert—

‘a later work program for the authority’.

11 **Amendment of s 25M (Requirements for making application)**

Section 25M—

insert—

- ‘(3) An authority to prospect holder can not apply to renew the authority if section 173 applies and the relinquishment condition under that section has not been complied with.
- ‘(4) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 2004 Act lease, the application is invalid.’.

12 Amendment of s 25U (Expiry of pt 4 and ending of authorities to prospect)

Section 25U(2)—

omit, insert—

- ‘(2) All authorities to prospect still in force immediately before 1 November 2021 expire on that day.’.

13 Amendment of s 45 (Entitlement to renewal of lease)

Section 45(1A)(d), ‘an agreement as follows’—

omit, insert—

‘a following agreement, whether made before or after the commencement of this paragraph,’.

14 Amendment of s 74J (Penalty relinquishment if work program not completed within extended period)

- (1) Section 74J, ‘that corresponds’—

omit, insert—

‘that the Minister is satisfied corresponds’.

- (2) Section 74J—

insert—

- ‘(2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- ‘(3) If the holder does not comply with subsection (2), the Minister may take action under section 80T(1)(b).’.

15 Amendment of s 75A (Obligation to decommission pipelines)

Section 75A(2)—

omit, insert—

- ‘(2) However, subsection (1) does not apply if—
- (a) the pipeline was constructed or operated under another 1923 Act petroleum tenure or 2004 Act petroleum tenure and the pipeline has not, since its construction, operated under the holder’s tenure; and
 - (b) the pipeline is operated as an authorised activity for a 1923 Act petroleum tenure or a 2004 Act petroleum tenure.’.

16 Insertion of new pt 6CA

After section 75I—

insert—

‘Part 6CA Existing Water Act bores**‘Division 1 Preliminary****‘75IA Simplified outline of pt 6CA**

- ‘(1) This part imposes an obligation on each 1923 Act petroleum tenure holder to do either of the following because of the taking of water necessarily taken as part of petroleum production under the tenure—
- (a) take restoration measures in relation to particular water bores;
 - (b) compensate the owners of particular water bores.
- ‘(2) Division 2 provides for when the obligation arises.
- ‘(3) Divisions 3 and 4 provide for the identification of the bores through underground water impact and pre-closure reports required to be lodged by 1923 Act petroleum tenure holders.
- ‘(4) Division 5 provides for reports by tenure holders to—

- (a) monitor the taking of water necessarily taken as part of petroleum production; and
 - (b) assess and review underground water impact reports.
- ‘(5) Division 6 provides for agreements for, and for the resolution of disputes about, complying with the obligation.

‘751B What is an *existing Water Act bore*

- ‘(1) An *existing Water Act bore*, for a 1923 Act petroleum tenure, is a water bore as defined under the Water Act if—
- (a) the taking of, or interference with, water from the bore is authorised under the Water Act; and
 - (b) if the *Integrated Planning Act 1997* required a development approval under that Act in relation to the bore for operational work for the taking of, or interfering with, water under the Water Act—that approval has been granted; and
 - (c) the bore was in existence at the earlier of the following for the tenure—
 - (i) either—
 - (A) for a lease—the start of petroleum production under the lease for commercial purposes; or
 - (B) for an authority to prospect—the approval, under the instrument for the authority, to produce petroleum;
 - (ii) the start of petroleum production for commercial purposes.
- ‘(2) A replacement of a bore mentioned in subsection (1) to comply with the make good obligation is also an *existing Water Act bore* for the 1923 Act petroleum tenure.

‘751C When an existing Water Act bore is *unduly affected*

- ‘(1) An existing Water Act bore is *unduly affected* by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure if—

- (a) the drop in the level of water in the bore because the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure is more than the trigger threshold for aquifers in relation to which the taking is carried out; and
 - (b) the bore has an impaired capacity.
- ‘(2) If the exceeding of the trigger threshold was caused by a combination of any of the following activities the existing water Act bore is *unduly affected* by each of the activities—
- (a) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (b) the exercise, under the 2004 Act, of underground water rights for 1 or more 2004 Act petroleum tenures.

‘75ID When an existing Water Act bore has an *impaired capacity*

- ‘(1) An existing Water Act bore has an *impaired capacity* if—
- (a) for a bore used for domestic purposes—it is no longer able to provide a reasonable supply of water for the domestic purpose required at its location; or
 - (b) for a bore used for stock purposes—there is a material reduction in the number of stock able to be watered from the bore, having regard to the stock carrying capacity of the land serviced by the bore; or
 - (c) for a bore from which the taking of or interference with water is authorised under a licence under the Water Act other than for domestic purposes or stock purposes—there is a material reduction in the pumping supply required to service the relevant enterprise or town water supply.
- ‘(2) In this section—
- domestic purposes* includes irrigating a garden, not exceeding 0.25 ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

stock purposes means watering stock of a number that would normally be depastured on the land on which the water is, or is to be used.

‘75IE What are *restoration measures*

‘Restoration measures, for an existing Water Act bore, means measures to—

- (a) ensure the bore will no longer have an impaired capacity; or
- (b) provide an alternative supply of water to the supply of water from the bore.

Examples of possible restoration measures—

- deepening the bore
- drilling a new bore
- providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source

‘75IF References to 1923 Act petroleum tenure holder in pt 6CA

- ‘(1) This section applies if a 1923 Act petroleum tenure ends.
- ‘(2) If the tenure was an authority to prospect and, under section 40,¹ the tenure holder became a lease holder, a reference in this part—
 - (a) to the 1923 Act petroleum tenure is a reference to the authority to prospect and the lease; and
 - (b) to the tenure holder includes a reference to the lease holder.
- ‘(3) Otherwise, a reference in this part to the tenure holder includes a reference to the holder of the tenure immediately before it ended.

¹ Section 40 (Lease to holder of authority to prospect)

‘Division 2 Obligation to make good for existing Water Act bores

‘75IG The make good obligation

- ‘(1) If the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure unduly affects an existing Water Act bore, the holder must—
- (a) within a reasonable period, take restoration measures to restore the supply of water to the owner of the bore; or
 - (b) compensate the owner for the bore being unduly affected.
- ‘(2) If an existing Water Act bore is likely, after the 1923 Act petroleum tenure ends, to become unduly affected by the taking, the holder must, before the tenure ends, comply with subsection (1) as if the bore is unduly affected by the taking.²
- ‘(3) However, subsection (2) does not apply if—
- (a) the ending of the 1923 Act petroleum tenure happens under the 2004 Act, section 911;³ or
 - (b) the 1923 Act petroleum tenure was an authority to prospect and, under section 40, the tenure holder became a lease holder.
- ‘(4) The obligations under subsections (1) and (2) are the *make good obligation*.
- ‘(5) Despite subsections (1) and (2), the make good obligation does not apply for an existing Water Act bore if either of the following happened before the commencement of this section—
- (a) the 1923 Act petroleum tenure has ended;
 - (b) the part of the area of the tenure on which the taking happened ceased to be part of the area of the tenure.

2 See however section 75IY (Effect of lodgment of review report).

3 For what happens if, under the 2004 Act, a replacement tenure for the 1923 Act petroleum tenure takes effect, see also the 2004 Act, section 911A (Provision for continuance of 1923 Act make good obligation).

‘75IH Provisions for application of make good obligation

- ‘(1) The make good obligation applies—
 - (a) whether the bore is inside or outside the area of the 1923 Act petroleum tenure; and
 - (b) even if the bore was first unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure after it ends.
- ‘(2) If the make good obligation under this Act or the 2004 Act applies to more than 1 1923 Act or 2004 Act petroleum tenure holder for the same existing Water Act bore, the obligations apply to each of them jointly and severally.
- ‘(3) The make good obligation continues to apply despite the ending of the tenure.⁴

‘Division 3 Underground water impact reports**‘Subdivision 1 Fixing of trigger threshold for aquifers****‘75II Operation of sdiv 1**

- ‘(1) This subdivision provides for the fixing of a trigger threshold for aquifers in the area affected by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure.
- ‘(2) The fixing of the trigger threshold allows the tenure holder to prepare an underground water impact report for the tenure.

‘75IJ Request for trigger threshold and action on request

- ‘(1) The 1923 Act petroleum tenure holder may ask the chief executive what the trigger threshold is for the aquifers.

⁴ For access to the relevant land after the tenure ends to comply with the make good obligation, see section 75IZJ (Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation).

- ‘(2) The chief executive must—
 - (a) if no trigger threshold already applies for the aquifers—fix a trigger threshold for the aquifers and tell the tenure holder what that trigger threshold is; or
 - (b) if, under section 75IL or the 2004 Act, section 253(2)(a), a trigger threshold already applies for the aquifers—tell the tenure holder what that trigger threshold is.

‘75IK Provisions for fixing trigger threshold

- ‘(1) A trigger threshold fixed under section 75IJ(2)(a) must be the water level drop in the aquifers that the chief executive considers would be a level that causes a significant reduction in the maximum pumping rate or flow rate of the existing Water Act bores in the area affected by the taking of water necessarily taken as part of petroleum production.
- ‘(2) In fixing the trigger threshold, the chief executive—
 - (a) must consider—
 - (i) the permeability and geometry of the aquifers; and
 - (ii) the water levels in the aquifers; and
 - (b) must allow the 1923 Act petroleum tenure holder a reasonable opportunity to make submissions about the trigger threshold proposed by the chief executive; and
 - (c) may ask the tenure holder to give the chief executive documents or information the chief executive reasonably requires to fix the trigger threshold.
- ‘(3) If the request is not complied with the chief executive may fix the trigger threshold using the documents or information available to the chief executive.

‘75IL Fixed trigger threshold applies for all taking of water necessarily taken as part of petroleum production

- ‘(1) This section applies if, under section 75IJ(2)(a) or the 2004 Act, section 253(2)(a),⁵ a trigger threshold has already been fixed for an aquifer in any part of the area affected by the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure.
- ‘(2) The trigger threshold applies for any aquifer in the area for the taking of water necessarily taken as part of petroleum production under any other 1923 Act petroleum tenure.

‘Subdivision 2 Lodging report

‘75IM Lodging report

- ‘(1) Each 1923 Act petroleum tenure holder must, on or before the relevant time, lodge an underground water impact report at the following office (the *relevant office*)—
 - (a) the office of the department for lodging underground water impact reports, 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.
- ‘(2) An underground water impact report—
 - (a) must comply with section 75IN; and
 - (b) may relate to the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act or 2004 Act petroleum tenures, held by the same person, or by different persons.
- ‘(3) In this section—

relevant time means the earlier of any of the following—

 - (a) 20 business days after the end of the first year of—

⁵ 2004 Act section 253 (Request for trigger threshold and action on request)

- (i) for a lease—the start of petroleum production under the lease for commercial purposes; or
 - (ii) for an authority to prospect—the approval, under the instrument for the authority, to produce petroleum;
- (b) for a lease—when the lease holder is, under the 2004 Act, section 599,⁶ first required to lodge a royalty return for petroleum production in the area of the lease.

‘75IN Requirements for report

- ‘(1) Subject to section 75IO, an underground water impact report must include each of the following—
- (a) the trigger threshold for aquifers in the area affected by the taking of water necessarily taken as part of petroleum production under the 1923 Act petroleum tenure;
 - (b) details of an underground water flow model prepared by the holder to predict the drop in the water level, because of the taking, in aquifers predicted by the holder to be affected by the taking;
 - (c) the area and aquifers predicted by the holder to be affected by the taking;
 - (d) details of the existing Water Act bores predicted by the holder to be unduly affected by the taking, either alone or in combination with—
 - (i) the taking of water necessarily taken as part of petroleum production under another 1923 Act petroleum tenure; or
 - (ii) the exercise of underground water rights under the 2004 Act for a 2004 Act petroleum tenure;
 - (e) an estimate of when each of the bores will become unduly affected;
 - (f) details of a monitoring program proposed to be carried out by the holder to monitor the impact of the taking;

⁶ 2004 Act, section 599 (Annual royalty returns)

- (g) other information or matters prescribed under a regulation.
- ‘(2) The underground water flow model must comply with any requirements prescribed under a regulation.
- ‘(3) If the underground water impact report is for a combination of any of the following activities carried out by different persons, it may state the liability, as between the persons, to comply with the make good obligation under this Act or the 2004 Act for each existing Water Act bore identified in the report if it is, or becomes, unduly affected—
 - (a) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (b) the exercise, under the 2004 Act, of the underground water rights for 1 or more 2004 Act petroleum tenures.
- ‘(4) However, a statement under subsection (3) does not affect the tenure holders’ joint and several liability under section 75IH for the obligation.

‘75IO Exemption from underground water flow model

‘Section 75IN(1)(b) need not be complied with if the chief executive is satisfied—

- (a) that, because of the need for data to be collected after the relevant time under section 75IM for lodging the report, it is not reasonably possible for the holder to prepare an appropriate underground water flow model before that time; or
- (b) the report shows each of the following matters and, that because of the matters, the existing Water Act bores will not be unduly affected by the taking of water necessarily taken as part of petroleum production under the 1923 Act petroleum tenure—
 - (i) if there are existing Water Act bores in an aquifer other than the source aquifer for the taking—the source aquifer is not hydraulically connected to that aquifer;

- (ii) any existing Water Act bore in the source aquifer is sufficiently separated in distance from the place where the taking is to happen.

‘Subdivision 3 Consideration of underground water impact report

‘75IP Power to require amendment of report

- ‘(1) If an underground water impact report (the *original report*) does not include details of an underground water flow model prepared by the 1923 Act petroleum tenure holder, the chief executive may require the tenure holder to, within a stated reasonable period—
 - (a) prepare the model; and
 - (b) lodge an amended underground water impact report that includes details of the model.
- ‘(2) Subsection (1) applies despite any conclusion stated in the original report.
- ‘(3) If the chief executive is satisfied an underground water impact report (also the *original report*) is inadequate in a material particular, the chief executive may require the 1923 Act petroleum tenure holder who lodged the original report to lodge an amended underground water impact report that—
 - (a) amends the original report in a stated way; or
 - (b) includes stated information or material.

Example of a possible material inadequacy—

In the circumstances, it was appropriate for the water monitoring program detailed in the report to include the construction of a water observation bore. The construction of the bore is not provided for in the report.

- ‘(4) A requirement under this section must be made by a notice to the 1923 Act petroleum tenure holder who lodged the report.
- ‘(5) The notice must state a reasonable period within which the requirement must be complied with.

- ‘(6) An amended underground water impact report must be lodged at the same office at which the original report must be lodged.
- ‘(7) A 1923 Act petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- ‘(8) In this section—
underground water impact report includes an underground water impact report amended under this section.

‘75IQ Decision on report

- ‘(1) The chief executive must decide whether to accept or reject the underground water impact report.
- ‘(2) However, the chief executive may reject the report only if the chief executive is satisfied it is inadequate in a material particular.
- ‘(3) On rejection of the report, the chief executive must give the 1923 Act petroleum tenure holder an information notice about the decision to reject the report.
- ‘(4) The information notice must—
 - (a) require the tenure holder to lodge, under section 75IM,⁷ another underground water impact report; and
 - (b) state a reasonable period for lodging the other report.
- ‘(5) The tenure holder must comply with the requirement.

‘Division 4 Pre-closure report

‘75IR Obligation to lodge pre-closure report

- ‘(1) A 1923 Act petroleum tenure holder must, within 40 business days before the earliest of the following times, lodge a report (a *pre-closure report*) for the tenure that complies with section 75IS—

⁷ Section 75IM (Lodging report)

- (a) 1 year before the end of the term of the tenure other than under the 2004 Act, section 911;⁸
 - (b) when the holder makes a surrender application for the tenure;
 - (c) an earlier time stated in a notice from the chief executive to the holder.
- ‘(2) However, if at any time before the last time by which the holder can, under this Act, apply to renew the tenure, the holder gives the chief executive a written declaration stating that the holder intends to apply to renew the tenure, subsection (1)—
- (a) only applies if—
 - (i) the holder does not, before that time, make a renewal application for the tenure; or
 - (ii) a renewal application for the tenure is rejected; and
 - (b) does not apply if a renewal application for the tenure is granted, unless—
 - (i) the holder makes a surrender application for the tenure; or
 - (ii) the chief executive gives the holder a notice stating that the holder must, at a stated time, lodge a pre-closure report.
- ‘(3) The report must be lodged at—
- (a) the office of the department for lodging pre-closure reports, 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.

‘75IS Requirements for report

‘The pre-closure report must state each of the following—

⁸ See however the 2004 Act, section 911A (Provision for continuance of 1923 Act make good obligation).

- (a) the existing Water Act bores that, after the 1923 Act petroleum tenure ends, the tenure holder predicts may become unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure, during its term;
- (b) an estimate of when each of the bores will become unduly affected;
- (c) what steps have been taken to comply with the make good obligation in relation to the bores;
- (d) the information or matters prescribed under a regulation.

‘75IT Power to require amendment of report

- ‘(1) This section applies if, before the end of the 1923 Act petroleum tenure, the chief executive considers that the effect of the taking of water necessarily taken as part of petroleum production under the tenure is materially different to the effect predicted in the pre-closure report.
- ‘(2) The chief executive may require the tenure holder to lodge, as required under section 75IR, an amended pre-closure report stating a prediction under section 75IS(a) that is appropriate.
- ‘(3) A requirement under this section must include, or be accompanied by, an information notice about the decision to make the requirement.
- ‘(4) The information notice must state a reasonable period for lodging the amended report.

‘75IU Effect of lodgment of report

- ‘(1) This section applies from the end of the 1923 Act petroleum tenure if the former 1923 Act petroleum tenure holder—
 - (a) was, under section 75IR, required to lodge a pre-closure report; and
 - (b) has lodged a pre-closure report that complies with section 75IS; and
 - (c) has complied with any requirement under section 75IT.

- ‘(2) The existing Water Act bores stated in the pre-closure report are, for section 75IG(2),⁹ taken to be the only existing Water Act bores that are likely, after the 1923 Act petroleum tenure ends, to become unduly affected by the taking of water necessarily taken as part of petroleum production under the tenure.

‘Division 5 Monitoring and review reports

‘75IV Operation of div 5

- ‘(1) This division requires the tenure holder to lodge monitoring reports and review reports.
- ‘(2) The purpose of a monitoring report is to monitor the effect of the taking of water necessarily taken as part of petroleum production for a 1923 Act petroleum tenure.
- ‘(3) The purposes of a review report are to—
- (a) compare the effect of the taking with the predicted effect in the holder’s relevant underground water impact report to show whether the report continues to be appropriate; and
 - (b) amend the underground water impact report to reflect the results of the comparison.

‘75IW Obligation to lodge monitoring reports

- ‘(1) Subject to sections 75IZ and 75IZA, the 1923 Act petroleum tenure holder must when the holder is, under section 76F,¹⁰ required to lodge an annual report for the tenure, lodge a monitoring report for the tenure.
- ‘(2) The monitoring report must—
- (a) report on the monitoring program provided for in the tenure holder’s impact report; and

9 Section 75IG (The make good obligation)

10 Section 76F (Obligation to lodge annual reports)

- (b) state the information or matters prescribed under a regulation; and
- (c) be included in the annual report, or lodged together with it at—
 - (i) the office of the department for lodging monitoring reports, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

‘75IX Obligation to lodge review reports

- ‘(1) Subject to sections 75IZ and 75IZA, the 1923 Act petroleum tenure holder must lodge review reports about each underground water impact report by the holder before each of the following—
 - (a) the first anniversary from when the underground water impact report was accepted by the chief executive;
 - (b) the third anniversary of the acceptance;
 - (c) the fifth anniversary of the acceptance;
 - (d) the end of each interval of 5 years after the fifth anniversary.
- ‘(2) The review reports must—
 - (a) state the information or matters prescribed under a regulation; and
 - (b) amend the underground water impact report in a way that is consistent with the review report; and
 - (c) be included in the annual report that under section 76F,¹¹ must be lodged at the nearest point in time to when the review reports must be lodged under subsection (1).
- ‘(3) For working out the intervals, any transition, under section 40,¹² of an authority to prospect to a lease must be disregarded.

11 Section 76F (Obligation to lodge annual reports)

12 Section 40 (Lease to holder of authority to prospect)

- ‘(4) The tenure holder may, at any time, lodge a review report at the office at which annual reports must, under section 76F,¹³ be lodged.

‘75IY Effect of lodgment of review report

‘On the lodgment of a review report that complies with section 75IX—

- (a) the underground water impact report to which it relates is taken to have been amended as provided in the review report; and
- (b) if the underground water impact report conflicts with a matter provided for in the review report, the underground water impact report is taken to have been amended to agree with the review report.

‘75IZ Chief executive’s power to change frequency of reports

- ‘(1) The chief executive may, by notice to the 1923 Act petroleum tenure holder, change the frequency required under this division for the lodging of monitoring reports or review reports.
- ‘(2) However, the frequency may be changed for review reports only if a review report shows that the effect of the taking of water necessarily taken as part of petroleum production under the tenure on existing Water Act bores is materially different to the effect predicted in the holder’s underground water impact report.

‘75IZA Chief executive’s power to change reporting days

- ‘(1) The chief executive may, by notice to the 1923 Act petroleum tenure holder, change the day on which monitoring reports or review reports must be lodged under this division.
- ‘(2) However, the changed day must not be more than 1 year after the day the report was otherwise required to be lodged.

13 Section 76F (Obligation to lodge annual reports)

‘75IZB Power to require amendment of review report

- ‘(1) This section applies if the chief executive considers that a review report does not achieve a purpose of a review report, as stated in section 75IV(3).
- ‘(2) The chief executive may require the holder to lodge at the following office an amended review report that does achieve all of the purposes—
 - (a) the office of the department for lodging amended review reports, 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.
- ‘(3) A requirement under this section must be by a notice that includes an information notice about the decision to make the requirement.
- ‘(4) The information notice must state a reasonable period for lodging the amended report.
- ‘(5) A 1923 Act petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- ‘(6) In this section—
review report includes a review report amended under this section.

‘Division 6 Complying with make good obligation**‘Subdivision 1 Obligation to negotiate****‘75IZC 1923 Act petroleum tenure holder’s obligation to negotiate**

- ‘(1) A 1923 Act petroleum tenure holder must make reasonable attempts to negotiate an agreement (a *make good agreement*) with an owner of an existing Water Act bore about how the make good obligation for the bore is to be complied with.

- ‘(2) A make good agreement may be included in a compensation agreement under part 6K¹⁴ between the tenure holder and the owner.

‘Subdivision 2 Tribunal decision on how the obligation must be complied with

‘75IZD Application of sdiv 2

‘This subdivision applies if 1 or more 1923 Act or 2004 Act petroleum tenure holders to whom the make good obligation under this Act or the 2004 Act applies in relation to an existing Water Act bore and the owner of the bore can not agree about how the obligation is to be complied with.

‘75IZE Applying to tribunal

- ‘(1) Any of the tenure holders or the owner may apply to the tribunal for it to decide how the obligation must be complied with.
- ‘(2) If the obligation arose because of a combination of any of the following activities carried out by different persons each of them must be a party to the application—
- (a) the taking of water necessarily taken as part of petroleum production under another 1923 Act petroleum tenure;
 - (b) the exercise of underground water rights under the 2004 Act for a 2004 Act petroleum tenure.

‘75IZF Provisions for making decision

- ‘(1) The tribunal may decide how the obligation must be complied with.
- ‘(2) However—

14 Part 6K (General compensation provisions)

- (a) the tribunal may make the decision only to the extent the obligation is not the subject of a make good or other agreement between the tenure holder and the owner; and
 - (b) the tribunal may decide the owner must be compensated only if the tribunal considers it is not reasonably feasible to comply with the obligation by the taking of any restoration measures.
- ‘(3) The tribunal may make any order it considers appropriate to meet or enforce its decision on the application.
- ‘(4) If—
- (a) the obligation arose because of a combination of any of the following—
 - (i) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (ii) the exercise, under the 2004 Act, of underground water rights for 1 or more 2004 Act petroleum tenures; and
 - (b) the tenures are held by different persons; and
 - (c) the tenure holders have not agreed between themselves about how much each must contribute to comply with the obligation;
- the tribunal may decide their contributions.
- ‘(5) However, a decision under subsection (4) does not affect the tenure holders’ joint and several liability under section 75IH¹⁵ for the obligation.

‘75IZG Provisions for deciding compensation

- ‘(1) This section applies if the tribunal decides that the obligation is to be complied with by compensation to the owner.
- ‘(2) The compensation may only be for—

15 Section 75IH (Provisions for application of make good obligation)

- (a) diminution of any of the following because of the taking of water necessarily taken as part of petroleum production—
 - (i) the value of the owner’s land on which the bore is located;
 - (ii) the use the owner has made, or may make, of water from the existing Water Act bore; or
- (b) any cost or loss the owner suffers that is caused by the impaired capacity of the bore.

Example of a possible cost—

the cost of transporting water to the land from an alternative water source

- ‘(3) In deciding the amount of the compensation, the tribunal may consider any restoration measures, successful or otherwise, taken or attempted by the tenure holder.
- ‘(4) The tribunal must, as far as practicable, decide the compensation at the same time as it makes any decision about any compensation liability that the tenure holder has to the owner under part 6K.¹⁶

‘Subdivision 3 Miscellaneous provisions

‘75IZH Make good agreement or tribunal’s decision binds successors and assigns

- ‘(1) A make good agreement or a decision by the tribunal under subdivision 2 is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
 - (a) the owner of the relevant existing Water Act bore; and
 - (b) each relevant 1923 Act or 2004 Act petroleum tenure holder; and

16 Part 6K (General compensation provisions)

(c) each of their successors and assigns, including successors and assigns of the relevant 1923 Act petroleum tenure.¹⁷

‘(2) Subsection (1) is subject to section 75IZI.

‘75IZI Reviews by tribunal

‘(1) This section applies if, since the making of a make good agreement or a decision by the tribunal under subdivision 2 (the *original agreement or decision*), there has been a material change in circumstances (the *change*).

‘(2) Any person mentioned in section 75IZH may apply to the tribunal for it to review the original agreement or decision.

‘(3) In carrying out the review, the tribunal may review the agreement or decision only to the extent it is affected by the change.

‘(4) The tribunal may, after carrying out the review, decide to confirm the original agreement or decision or amend it in a way the tribunal considers appropriate.

‘(5) If the decision is to amend the original agreement or decision, the original agreement or decision, as amended under the decision, is for this Act, taken to be the original agreement or decision.

‘75IZJ Right of entry after 1923 Act petroleum tenure ends to comply with make good obligation

‘(1) This section applies if a 1923 Act petroleum tenure holder has not complied with the make good obligation in relation to an existing Water Act bore and the tenure has ended.

‘(2) The former tenure holder may enter the land on which the bore is located to comply with the make good obligation.

‘(3) Parts 6H, 6I and 6K,¹⁸ apply to the former tenure holder as if—

17 See also section 75IF (References to 1923 Act petroleum tenure holder in pt 6CA).

18 Parts 6H (Private land), 6I (Public land) and 6K (General compensation provisions)

- (a) the tenure were still in force; and
- (b) the former tenure holder is its holder; and
- (c) the land is in the area of the tenure; and
- (d) compliance with the make good obligation is an authorised activity for the tenure.

‘75IZK Advice from Water Act regulator

- ‘(1) The chief executive must, before deciding any matter under this part, seek advice about the matter from the Water Act regulator.
- ‘(2) A failure to comply with subsection (1) does not invalidate or otherwise affect the decision.’.

17 Amendment of s 75J (Requirements for drilling well)

Section 75J(2)—

omit, insert—

- ‘(2) The requirements may include provisions to prevent the drilling adversely affecting the carrying out of safe and efficient mining or future mining of coal under the Mineral Resources Act.’.

18 Amendment of s 75L (Restrictions on making conversion)

Section 75L, before penalty—

insert—

- ‘(c) permission for the conversion has been granted under section 86.’.

19 Amendment of s 75Q (Transfer of water observation bore or water supply bore to landowner)

Section 75Q(3), before ‘landowner’—

insert—

- ‘Minister and the’.

20 Amendment of s 75R (Transfer of well to holder of geothermal exploration permit or mining tenement)

Section 75R—

insert—

‘(c) the Minister approves the transfer.’.

21 Replacement of s 75S (Transfer of water observation bore to 1923 Act petroleum tenure holder)

Section 75S—

omit, insert—

‘75S Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder

‘A 1923 Act petroleum tenure holder, a 2004 Act petroleum tenure holder or a water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the holder of another 1923 Act petroleum tenure, 2004 Act petroleum tenure or a water monitoring authority if—

- (a) the bore is in the area of the other tenure or authority; and
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the Minister approves the transfer.’.

22 Amendment of s 75U (Obligation to decommission)

(1) Section 75U(1)—

omit, insert—

‘(1) This section applies to a person (the *responsible person*) who holds a 1923 Act petroleum tenure on which there is a well,

water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder.’.

(2) Section 75U(2)—

insert—

‘Maximum penalty—500 penalty units.’.

(3) Section 75U(4)(b), before ‘the decommissioning’—

insert—

‘for a bore—’.

(4) Section 75U—

insert—

‘(4A) Subsection (4)(b) applies only to the extent it is not inconsistent with subsection (4)(a).’.

23 Insertion of new pt 6D, div 5

After section 75W—

insert—

‘Division 5 Water monitoring authorities

‘Subdivision 1 Obtaining water monitoring authority

‘75WA Who may apply for water monitoring authority

‘(1) A 1923 Act petroleum tenure holder may apply for a water monitoring authority for stated land to allow the holder to comply with, or assess the need to comply with, the make good obligation for the tenure.

‘(2) The application may be made or granted for—

(a) land in the area of another 1923 Act petroleum tenure or a 2004 Act petroleum authority; and

(b) 1 or more tenures or authorities mentioned in paragraph (a) held by the same applicant.

‘75WB Requirements for making application

‘The application must be—

- (a) in the approved form; and
- (b) lodged at—
 - (i) the office of the department for lodging water monitoring authority applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) accompanied by the fee prescribed under a regulation.

‘75WC Deciding application for water monitoring authority

- ‘(1) The Minister may grant or refuse the water monitoring authority.
- ‘(2) However, the water monitoring authority must not be granted unless a relevant environmental authority for the water monitoring authority has been issued.
- ‘(3) The authority must state its area and each 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which it relates.
- ‘(4) The authority may also state—
 - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
 - (i) inconsistent with subdivision 2 or section 75WM¹⁹ or any other mandatory condition for water monitoring authorities; or
 - (ii) inconsistent with a condition of any 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates; or
 - (iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and

19 Section 75WM (Additional condition of relevant petroleum tenure)

- (b) the day it takes effect.
- (5) However, the provisions of the authority may exclude or restrict the carrying out of water monitoring activities.

‘Subdivision 2 Key authorised activities

‘75WD Operation of sdiv 2

- (1) This subdivision provides for the key authorised activities for a water monitoring authority.
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) sections 3, 75WH and 75WI; and
 - (b) parts 6H, 6I, 6J and 6K; and
 - (c) the conditions of the authority; and
 - (d) any exclusion or restriction provided for in the authority on the carrying out of the activities.

‘75WE Water monitoring activities

‘The authority holder may carry out any water monitoring activity in the area of the authority.

‘75WF Limited right to take or interfere with underground water

‘The authority holder may take or interfere with underground water only to the extent that the taking or interference is the unavoidable result of carrying out a water monitoring activity in the area of the authority.

Example—

The taking of or interference with underground water during the drilling or maintenance of a water observation bore in the area.

‘75WG Authorisation for Water Act

‘For the Water Act, the taking of or interference with underground water, under section 75WF, is taken to be authorised.²⁰

‘75WH Water Act not otherwise affected

‘To remove any doubt, it is declared that the water monitoring authority holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under this subdivision or the Water Act.²¹

‘75WI Restriction on carrying out authorised activities

‘In carrying out an authorised activity for the water monitoring authority, the holder must not interfere with the carrying out of an authorised activity for a 1923 Act petroleum tenure or a 2004 Act petroleum tenure, or of another water monitoring authority, the area of which includes the area of the authority.

Maximum penalty—1 000 penalty units.

‘75WJ No right to petroleum discovered

‘To remove any doubt, it is declared that the discovery of petroleum while carrying out an authorised activity for the authority does not, of itself, give the authority holder a right to the petroleum.

20 See the Water Act, section 808 (Unauthorised taking, supplying or interfering with water).

21 See Water Act, sections 20 (Authorised taking of water without water entitlement) and 808 (Unauthorised taking, supplying or interfering with water).

‘Subdivision 3 Miscellaneous provisions

‘75WK Term of authority

‘Subject to part 6P, division 3, a water monitoring authority continues in force until there is no longer any 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates.

‘75WL Provision for who is the authority holder if only 1 related petroleum tenure

- ‘(1) This section applies if there is only 1 1923 Act petroleum tenure to which a water monitoring authority relates.
- ‘(2) The authority holder is taken to be the person who, from time to time, holds the 1923 Act petroleum tenure to which the authority relates.

‘75WM Additional condition of relevant petroleum tenure

‘If a condition is imposed on a water monitoring authority (the *authority condition*), it is a condition of each 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

‘75WN Amending water monitoring authority by application

- ‘(1) The holder of a water monitoring authority may apply to amend it—
 - (a) to increase or decrease its area; or
 - (b) to add or omit, or reflect an amendment of, a 1923 Act petroleum tenure or a 2004 Act petroleum tenure that relates to the authority.
- ‘(2) The holder can not apply to amend the authority in any other way.
- ‘(3) The application must be—
 - (a) in the approved form; and

- (b) lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) accompanied by the fee prescribed under a regulation.
- ‘(4) The Minister may grant or refuse the amendment.
- ‘(5) The amendment may be granted (a *conditional grant*) subject to the applicant’s written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate.²²
- ‘(6) On refusal of the application or the making of a decision to make a conditional grant, the applicant must be given an information notice about the decision to refuse or to make the conditional grant.’.

24 Amendment of s 76R (Restriction)

Section 76R(1)(a), after ‘activity’—

omit, insert—

‘and to the safety management plan of the authority holder’.

25 Amendment of s 76W (Applicant’s obligations)

- (1) Section 76W(1)(b)(ii)—
omit.
- (2) Section 76W(1)(d)(v) and (vi)—
omit.
- (3) Section 76W(1)(d)(vii)—
renumber as section 76W(1)(d)(v).

²² See section 125 (Power to correct or amend).
See also part 6G (Security).

(4) Section 76W(3) and (4)—

omit.

(5) Section 76W(5)—

renumber as section 76W(3).

26 Amendment of s 76X (Minister may require further negotiation)

Section 76X(1)(a)—

omit.

27 Amendment of s 77 (Submissions by coal or oil shale exploration tenement holder)

(1) Section 77(3)(a) and (b)—

omit.

(2) Section 77(3)(c) to (f)—

renumber as section 77(3)(a) to (d).

(3) Section 77(5), ‘application’—

omit, insert—

‘conditions of the lease’.

28 Omission of pt 6F, div 3, sdivs 2 and 3

Part 6F, division 3, subdivisions 2 and 3—

omit.

29 Amendment of s 77O (Requirement for giving of copy of relinquishment report)

Section 77O(2), penalty, ‘200’—

omit, insert—

‘150’.

30 Amendment of s 77X (Deciding amendment application)

Section 77X—

insert—

- ‘(5) The applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.’

31 Replacement of pt 6F, div 6 (Proposed later development plans)

Part 6F, division 6—

*omit, insert—***‘Division 6 Additional provisions for development plans****‘Subdivision 1 Additional requirements for proposed later development plans****‘77ZA Operation of sdiv 1**

‘This subdivision provides for additional requirements for a proposed later development plan for a lease.

‘77ZB Statement about interests of coal or oil shale exploration tenement holder

‘The proposed plan must include a statement of how the effects on, and the interests of, any relevant overlapping or adjacent coal or oil shale mining tenement holder have, or have not, been considered, having regard to—

- (a) the main purposes of this part;²³ and
- (b) the CSG assessment criteria.

²³ See section 76H (Main purposes of pt 6F).

‘77ZC Requirement to optimise petroleum production

- ‘(1) The activities provided for under the proposed plan must seek to optimise petroleum production in a safe and efficient way.
- ‘(2) However, the activities must not adversely affect the future safe and efficient mining of coal where it is commercially and technically feasible not to do so.

‘77ZD Consistency with coal or oil shale mining lease, development plan and relevant coordination arrangement

‘If all or part of the area of the lease is in the area of a coal or oil shale mining 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 mining lease; and
- (b) any coordination arrangement relating to the relevant land.

‘Subdivision 2 Other additional provisions for proposed later development plans**‘77ZE Application of sdiv 2**

‘This subdivision applies if—

- (a) the Minister is considering whether to approve a proposed later development plan for a lease; and
- (b) the area of the lease includes all or part of the area of a coal or oil shale mining tenement.

‘78 Additional criteria for approval

‘The matters that must be considered include—

- (a) the CSG assessment criteria; and
- (b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.’.

32 Amendment of s 78B (Confidentiality obligations)

- (1) Section 78B(1)(b)(i) to (iii)—
renumber as section 78(1)(b)(ii) to (iv).
- (2) Section 78B(1)(b)—
insert—
 - (i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient's 1923 Act petroleum tenure or coal or oil shale mining tenement; or'.

33 Amendment of s 78F (Minister's power to require additional security)

- (1) Section 78F(1), 'petroleum authority'—
omit, insert—
'1923 Act petroleum tenure'.
- (2) Section 78F(1), 'the authority'—
omit, insert—
'the tenure'.

34 Amendment of s 78M (Requirement for entry notice to carry out authorised activities)

- Section 78M(1), penalty, '100'—
omit, insert—
'500'.

35 Amendment of s 79P (General liability to compensate)

- (1) Section 79P(2) from 'relevant' to 'land'—
omit, insert—
'owner or occupier of private or public land in the area of the tenure'.
- (2) Section 79P(5), definition *relevant owner or occupier*—
omit.

36 Amendment of s 80A (Petroleum register)

Section 80A(1)—

insert—

‘(c) trigger thresholds in relation to the make good obligation for 1923 Act petroleum tenures.’.

37 Amendment of s 80J (Deciding application)

Section 80J—

insert—

‘(6A) If the applicant does not comply with the requirement, the application may be refused.’.

38 Amendment of s 80K (Criteria for decision)

Section 80K(1)—

omit, insert—

‘(1) This section does not apply—

(a) if, under section 80J(3), the approval must be granted; or

(b) to an exempt transfer under section 80J.’.

39 Amendment of s 80T (Types of noncompliance action that may be taken)

Section 80T(1)(e), ‘1 000 penalty units’—

omit, insert—

‘2 000 penalty units’.

40 Amendment of s 103 (Recovery of unpaid amounts)

Section 103—

insert—

‘(2) In this section—

holder includes a former holder of the tenure in relation to which the remedial powers were exercised.’.

41 Amendment of s 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act, s 29 notice has been given)

Section 151(6), definition *initial work program requirements*—

omit, insert—

‘initial work program requirements means the requirements under sections 25A(1)(a) to (e) and 25B²⁴ for a proposed initial work program.’.

42 Insertion of new pt 10, sdiv 9A

Part 10, division 1—

insert—

‘Subdivision 9A Provisions for existing Water Act bores**‘165A Exemption from, or deferral of, reporting provisions for existing 1923 Act petroleum tenure holders**

- ‘(1) This section applies to the holder of any 1923 Act petroleum tenure under which petroleum production is carried out before 30 June 2005.
- ‘(2) The holder must, within 12 months after the 2004 Act start day, lodge at the following office a statement about the need to have an underground water impact report for the tenure—
 - (a) the office of the department for lodging the statement, 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.
- ‘(3) The chief executive may, after considering the statement, decide whether an underground water impact report is required for the tenure.

24 Sections 25A (General requirements) and 25B (Program period)

- ‘(4) The chief executive may require the holder to give the chief executive further information to enable the chief executive to make a decision under subsection (3).
- ‘(5) If the chief executive decides an underground water impact report is not required, sections 75IM and 75IX²⁵ are taken never to have applied to the holder.
- ‘(6) If the chief executive decides an underground water impact report is required, the chief executive may decide a reasonable time by which the report must be lodged.
- ‘(7) If, under subsection (6), the chief executive decides a time, section 75IM is taken not to apply to the holder until that time.
- ‘(8) A decision under this section has no effect until the holder is given notice of it.

‘165B Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day

‘Section 75IG²⁶ only applies in relation to an existing Water Act bore that was in existence on the 2004 Act start day or came into existence after that day.’.

43 Amendment of s 181 (Confidentiality obligations)

- (1) Section 181(1)(b)(i) to (iii)—
renumber as section 181(1)(b)(ii) to (iv).
- (2) Section 181(1)(b)—
insert—
 - ‘(i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient’s lease, MDL or MDL granted because of the MDL application; or’.

25 Sections 75IM (Lodging report) and 75IX (Obligation to lodge review reports)

26 Section 75IG (The make good obligation)

44 Insertion of new pt 11

After section 182—

insert—

**‘Part 11 Transitional provisions for
Petroleum and Other
Legislation Amendment Act
2005****‘183 S 86 water bores**

- ‘(1) This section applies for a water bore—
- (a) drilled with the permission of the Minister under the 1923 Act, section 86; and
 - (b) within the area of a 1923 Act petroleum tenure.
- ‘(2) On and from the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the water bore—
- (a) is taken to be a water supply bore under this Act; and
 - (b) may be transferred without complying with section 75Q(2).

‘184 Decommissioning wells and bores

- ‘(1) Until 1 July 2005, subsection (2) applies to a well or bore mentioned in section 75U instead of section 75U(4)(a).
- ‘(2) The well or bore must be plugged and abandoned under this Act, as the Act was immediately before the commencement of this section.’.

45 Amendment of schedule

Schedule, after entry for section 53F—

insert—

**‘Provisions for existing
Water Act bores**

75IQ	Rejection of underground water impact report
75IT	Requirement to lodge amended pre-closure report
75IZB	Requirement to lodge amended review report

**Water monitoring
authorities**

75WN	Decision to refuse amendment of water monitoring authority or to grant water monitoring authority subject to the applicant’s written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate
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Part 4 Amendment of Petroleum and Gas (Production and Safety) Act 2004

46 Act amended in pt 4

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

47 Amendment of s 11 (Meaning of LPG and fuel gas)

Section 11(1)(b)—

omit, insert—

‘(b) is predominately propane, propylene or butane; and’.

48 Amendment of s 78A (Penalty relinquishment if work program not completed within extended period)

- (1) Section 78A, ‘that corresponds’—
omit, insert—
‘that the Minister is satisfied corresponds’.
- (2) Section 78A—
insert—
‘(2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- ‘(3) If the holder does not comply with subsection (2), the Minister may take action under section 80T(1)(b).’.

49 Amendment of s 89 (Applying for potential commercial area)

- Section 89(2)—
insert—
‘(c) accompanied by the fee prescribed under a regulation.’.

50 Amendment of s 117 (Who may apply)

- Section 117(1), after ‘holder’—
insert—
‘or a 1923 Act ATP holder’.

51 Amendment of s 121 (Requirements for grant)

- Section 121(1)—
insert—
‘(h) the applicant has paid the annual rent for the first year of the proposed lease;
(i) the applicant has given, under section 488, security for the lease.’.

52 Amendment of s 227 (Storage rent payable by current owner)

- (1) Section 227(1), ‘the amount of’—
omit.
- (2) Section 227(2)(a)—
omit, insert—
- ‘(a) the person ceases to be the current owner of any of the stored petroleum or prescribed storage gas;’.

53 Amendment of s 234 (Arrangement to coordinate petroleum activities)

- (1) Section 234(1) and (2)—
omit, insert—
- ‘(1) The following persons may make an arrangement about a matter mentioned in subsection (2)—
- (a) the holder of a 1923 Act lease;
 - (b) the applicant for, or the holder of, a petroleum lease;
 - (c) the applicant for, or the holder of, a mining lease.
- ‘(2) For subsection (1), the matters are—
- (a) the orderly—
 - (i) production of petroleum from a natural underground reservoir under more than 1 of the leases; or
 - (ii) carrying out of an authorised activity for any of the leases by any party to the arrangement; and
 - (b) petroleum production from more than 1 natural underground reservoir under more than 1 of the leases.’.

(2) Section 234(3)(a), ‘subject to section 223,’—
omit.

(3) Section 234(3)(b), ‘inconsistent with’—
omit, insert—

‘inconsistent with, to the extent mentioned in subsection (3A),’.

(4) Section 234—

insert—

‘(3A) For subsection (3)(b), the arrangement may only be inconsistent with 1 or more of the following—

- (a) when a petroleum lease holder must start petroleum production under section 154(1);
- (b) the development plan or the proposed development plan for a lease mentioned in subsection (1);
- (c) the conditions of the lease imposed under—
 - (i) section 123(3); or
 - (ii) the Mineral Resources Act, section 276(1)(n) or 276(3).’.

(5) Section 234(6)—

insert—

‘**relevant lease** means—

- (a) 2 or more petroleum leases; or
- (b) 2 or more 1923 Act leases; or
- (c) 1 or more petroleum leases and 1 or more 1923 Act leases, in any combination; or
- (d) 1 or more mining lease and 1 or more petroleum leases or 1923 Act leases, in any combination.

Note—

- 1 Under the Mineral Resources Act, a coal mining lease holder or oil shale mining lease holder has a limited entitlement to mine and use incidental coal seam gas, which is *petroleum*. See section 10 of this Act and the Mineral Resources Act, part 7AA, division 8, subdivision 1.²⁷
- 2 A coordination arrangement may provide for mining or production from coextensive natural underground

27 Section 10 (Meaning of *petroleum*)

Mineral Resources Act, part 7AA, division 8 (Additional provisions for coal mining leases or oil shale mining leases), subdivision 1 (Entitlement to coal seam gas)

reservoirs. See section 114 and the Mineral Resources Act, section 318CQ.²⁸.

54 Amendment of s 236 (Ministerial approval of proposed coordination arrangement)

Section 236(1)(a)—

insert—

‘(iii) if the arrangement applies to land that is in the area of a coal or oil shale mining tenement and in the area of a petroleum lease or 1923 Act lease—the arrangement clearly identifies the safety responsibilities of each party to the arrangement in relation to the land; and’.

55 Amendment of s 246 (When an existing Water Act bore is unduly affected)

Section 246(2)—

omit, insert—

- ‘(2) If the exceeding of the trigger threshold was caused by a combination of any of the following activities the existing water Act bore is ***unduly affected*** by each of the activities—
- (a) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures;
 - (b) the exercise, under this Act, of underground water rights for 1 or more 2004 Act petroleum tenures.’.

56 Amendment of s 250 (The make good obligation)

Section 250—

insert—

- ‘(5) However, if the petroleum tenure (the ***original tenure***) ends because it is divided under chapter 2—

²⁸ Section 114 and the Mineral Resources Act, section 318CQ (Coordination arrangement may be made about mining or production from reservoir)

- (a) subsection (2) does not apply for the original tenure; but
- (b) subsection (1) applies to each petroleum tenure (the *new tenure*) into which the original tenure was divided as if any underground water rights exercised for any part of the area of the original tenure that is in the area of the new tenure were exercised for the new tenure.’.

57 Amendment of s 251 (Provisions for application of make good obligation)

Section 251(2)—

omit, insert—

- ‘(2) If the make good obligation under this Act or the 1923 Act applies to more than 1 petroleum tenure holder or 1923 Act petroleum tenure holder for the same existing Water Act bore, the obligations apply to each of them jointly and severally.’.

58 Amendment of s 255 (Fixed trigger threshold applies for all underground water rights)

Section 255(1), after ‘253(2)(a)’—

insert—

‘or the 1923 Act, section 75IJ(2)(a)²⁹’.

59 Amendment of s 257 (Requirements for report)

- (1) Section 257(1)(d) from ‘in combination with’—

omit, insert—

‘in combination with—

- (i) the exercise of underground water rights of another petroleum tenure holder; or
- (ii) the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure;’.

- (2) Section 257(3)—

²⁹ 1923 Act, section 75IJ (Request for trigger threshold and action on request)

omit, insert—

- ‘(3) If the underground water impact report is for a combination of any of the following activities carried out by different persons, it may state the liability, as between the persons, to comply with the make good obligation under this Act or the 1923 Act for each existing Water Act bore identified in the report if it is, or becomes, unduly affected—
- (a) the exercise of the underground water rights for 1 or more petroleum tenures;
 - (b) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures.’.

60 Amendment of s 261 (Obligation to lodge pre-closure report)

- (1) Section 261(1)(a), after ‘the tenure’—
insert—
‘other than because it is divided under chapter 2’.
- (2) Section 261(2)—
renumber as section 261(3).
- (3) Section 261—
insert—
- ‘(2) However, if at any time before the last time by which the holder can, under this Act, apply to renew the tenure, the holder gives the chief executive a written declaration stating that the holder intends to apply to renew the tenure, subsection (1)—
- (a) only applies if—
 - (i) the holder does not, before that time, make a renewal application for the tenure; or
 - (ii) a renewal application for the tenure is rejected; and
 - (b) does not apply if a renewal application for the tenure is granted, unless—

- (i) the holder makes a surrender application for the tenure; or
- (ii) the chief executive gives the holder a notice stating that the holder must, at a stated time, lodge a pre-closure report.’.

61 Amendment of s 264 (Effect of lodgment of report)

Section 264(1)—

omit, insert—

- ‘(1) This section applies from the end of the petroleum tenure if the former tenure holder—
 - (a) was, under section 261, required to lodge a pre-closure report; and
 - (b) has lodged a pre-closure report that complies with section 262; and
 - (c) has complied with any requirement under section 263.’.

62 Amendment of s 273 (Application of s div 2)

Section 273, ‘to whom the make good obligation’—

omit, insert—

‘or 1923 Act petroleum tenure holders to whom the make good obligation under this Act or the 1923 Act’.

63 Amendment of s 274 (Applying to tribunal)

Section 274(2)—

omit, insert—

- ‘(2) If the obligation arose because of a combination of any of the following activities carried out by different persons each of them must be a party to the application—
 - (a) the exercise of the underground water rights for 1 or more petroleum tenures;

- (b) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures.’.

64 Amendment of s 275 (Provisions for making decision)

Section 275(4)(a)—

omit, insert—

- ‘(a) the obligation arose because of a combination of any of the following—
- (i) the exercise of the underground water rights for 1 or more petroleum tenures;
 - (ii) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures; and’.

65 Amendment of s 277 (Make good agreement or tribunal’s decision binds successors and assigns)

Section 277(1)(b)—

omit, insert—

- ‘(b) each relevant petroleum tenure holder or 1923 Act petroleum tenure holder; and’.

66 Amendment of s 281 (Requirements for drilling petroleum well)

Section 281(2)—

omit, insert—

- ‘(2) The requirements may include provisions to prevent the drilling adversely affecting the carrying out of safe and efficient mining or future mining of coal under the Mineral Resources Act.’.

67 Amendment of s 292 (Obligation to decommission)

- (1) Section 292(1)—

omit, insert—

- ‘(1) This section applies to a person (the *responsible person*) who holds a petroleum tenure on which there is a well, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder.’.
- (2) Section 292(3)—
omit, insert—
- ‘(3) However, subsection (2) does not apply—
- (a) for land that, under section 101(1),³⁰ ceases to be in the area of an authority to prospect; or
- (b) if the tenure or authority ends because it is divided under chapter 2.’.
- (3) Section 292(4)(a)—
omit, insert—
- ‘(a) it has been plugged and abandoned in the way prescribed under a regulation; and’.
- (4) Section 292(4)(b), before ‘about the decommissioning’—
insert—
- ‘for the well or bore’.

68 Amendment of s 306 (Content requirements for CSG statement)

Section 306(2)(a), ‘comply’—

omit, insert—

‘for activities of the plant that may affect future safe and efficient mining of coal, comply’.

69 Amendment of s 378 (Applied provisions for making and deciding renewal application)

(1) Section 378(1)(b)(iii)—

omit, insert—

30 Section 101 (Area of authority to prospect reduced on grant of petroleum lease)

‘(iii) to a proposed initial development plan, an initial development plan, a proposed development plan or a development plan were a reference to a proposed later development plan or a later development plan.’.

(2) Section 378(1)(b)—

insert—

‘(iv) in section 314(5), to the ATP-related application were a reference to the conditions of the renewed lease.’.

(3) Section 378(2), definition *adopted provisions*, paragraph (b), after ‘division 2’—

insert—

‘(other than sections 346 and 347)’.

(4) Section 378(2), definition *adopted provisions*, paragraph (c), after ‘division 3’—

insert—

‘(other than sections 354 and 355)’.

70 Amendment of s 386 (Requirements for consultation with particular coal or oil shale mining tenement holders)

Section 386(4)(a)—

omit, insert—

‘(a) the operator gives the tenement holder a copy of the relevant parts, mentioned in section 306(2)(a), of the operator’s proposed safety management plan for any relevant operating plant the operator proposes to operate; and’.

71 Amendment of s 531 (General liability to compensate)

(1) Section 531(2), from ‘relevant’ to ‘land’—

omit, insert—

‘owner or occupier of private or public land that is in the area of, or is access land for, the petroleum authority’.

- (2) Section 531(5), definition *relevant owner or occupier*—
omit.

72 Amendment of s 546 (End of tenure report)

- (1) Section 546(1), after ‘a petroleum tenure’—
insert—
‘or water monitoring authority’.
- (2) Section 546(1), ‘held the tenure’—
omit, insert—
‘held the tenure or authority’.
- (3) Section 546(1)(a)(i) and (vi), after ‘tenure’—
insert—
‘or authority’.
- (4) Section 546(1)(a)(iv), ‘section 690(1)(g)’—
omit, insert—
‘section 690(1)(f)’.

73 Amendment of s 559 (Obligation to decommission pipelines)

- (1) Section 559—
insert—
- ‘(2A) Also, subsection (1) does not apply for a pipeline if—
- (a) the petroleum authority is a pipeline licence; and
- (b) the licence is surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.’.
- (2) Section 559(2A) and (3)—
renumber as section 559(3) and (4).

74 Amendment of s 569 (Prohibited dealings)

Section 569(1)—

insert—

‘(g) a transfer of a data acquisition authority, or of a share in a data acquisition authority, other than a transfer by operation of law under section 182.’.

75 Amendment of s 573 (Deciding application)

Section 573—

insert—

‘(6A) If the applicant does not comply with the requirement, the application may be refused.’.

76 Amendment of s 574 (Criteria for decision)

Section 574(1)—

omit, insert—

‘(1) This section does not apply—

(a) if, under section 573(3), the approval must be granted;
or

(b) to an exempt transfer under section 573.’.

77 Amendment of s 576 (Requirements for making surrender application)

Section 576(2)—

omit, insert—

‘(2) A surrender application must also be accompanied by a report by the applicant, containing the information prescribed under a regulation about—

(a) authorised activities for the authority carried out on the area the subject of the application; and

(b) the results of the activities.

Maximum penalty for subsection (2)—150 penalty units.’.

78 Amendment of s 589 (Recovery of unpaid amounts)

Section 589—

insert—

‘(2) In this section—

holder includes a former holder of the authority in relation to which the remedial powers were exercised.’.

79 Replacement of s 591 (General exemptions from petroleum royalty)

Section 591—

omit, insert—

‘591 General exemptions from petroleum royalty

‘(1) Petroleum produced on or after 31 December 2004 is exempt from the petroleum royalty if the Minister is satisfied—

- (a) the petroleum was unavoidably lost before it could be measured; or
- (b) the petroleum was used—
 - (i) if it was produced under a petroleum tenure or 1923 Act petroleum tenure—in the production of petroleum from that tenure; or
 - (ii) if the petroleum is coal seam gas—for mining the coal that produced the gas; or
- (c) that, before the petroleum was produced in the State, it was produced outside the State and injected or reinjected into a natural underground reservoir in the State; or
- (d) the petroleum is petroleum on which petroleum royalty has already been paid; or
- (e) the petroleum was flared or vented as part of testing for the presence of petroleum during the drilling of a well.

‘(2) However—

- (a) subsection (1) ceases to apply if, under chapter 2, part 6, division 3,³¹ the petroleum becomes the property of the State; and
 - (b) subsection (1)(c) does not apply if, after the petroleum royalty was paid, property in the petroleum is taken to have passed to the State under chapter 2, part 6, division 3.
- ‘(3) Despite subsection (1)(b)(ii), if the first underground mining of coal in a mining lease commenced before 31 December 2004, petroleum produced on the mining lease and used beneficially for mining under the mining lease is exempt from petroleum royalty.
- ‘(4) However, subsection (5) applies if the petroleum mentioned in subsection (1)(b)(ii) or subsection (3) is used to generate electricity that is—
- (a) partly used for mining under the mining lease; and
 - (b) partly used for another purpose.
- ‘(5) Subsection (1)(b)(ii) and subsection (3) apply only to the proportion of the petroleum that is equivalent to the proportion of the electricity generated from the petroleum that is used for mining under the mining lease.
- ‘(6) In this section—
- petroleum tenure* includes a 1923 Act petroleum tenure.’.

80 Replacement of s 591A (Exemption for production testing)

Section 591A—

omit, insert—

‘591A Exemption for production testing

- ‘(1) This section applies if—

31 Chapter 2, part 6, division 3 (Provisions for stored petroleum or prescribed storage gas after petroleum lease ends)

- (a) under section 73 or 152,³² a petroleum tenure holder carries out production testing in relation to a particular petroleum well (the *relevant well*); or
 - (b) under a 1923 Act petroleum tenure, the tenure holder carries out production testing in relation to a particular petroleum well (also the *relevant well*).
- ‘(2) If—
- (a) petroleum produced from the relevant well is coal seam gas or natural gas; and
 - (b) the gas is flared or vented; and
 - (c) the gas is, within the period provided for under subsection (3) produced as part of the production testing;

petroleum royalty is only payable on the amount of the petroleum flared or vented during the period that is more than 3 000 000 m³.

- ‘(3) For subsection (2), the period is the shorter of the following—
- (a) the sum of all periods after the 2004 Act start day for which, under section 73(2) or 152(2), or for a 1923 Act petroleum tenure, under the tenure, the production testing from the relevant well may be carried out;
 - (b) 13 months from the later of the following—
 - (i) the start of the production testing from the relevant well;
 - (ii) if the production testing had started before the 2004 Act start day, the 2004 Act start day.’.

81 Amendment of s 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)

Section 602—

insert—

32 Section 152 (Permitted period for production or storage testing)

- ‘(4) The interest accrues daily on the amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.’.

82 Amendment of s 670 (What is an *operating plant*)

- (1) Section 670(6)—

renumber as section 670(7).

- (2) Section 670—

insert—

- ‘(6) Also, an *operating plant* includes any part of the area of a petroleum tenure or 1923 Act petroleum tenure on which operating plant under subsections (2) to (5) are operated as authorised activities for the tenure.’.

83 Amendment of s 673 (Who is the *operator* of an operating plant)

- (1) Section 673(4)—

renumber as section 673(5).

- (2) Section 673—

insert—

- ‘(4) For an operating plant that, under section 670(6), is a part of the area of a petroleum tenure or 1923 Act petroleum tenure, the operator is the holder of the tenure.’.

84 Amendment of s 674 (Requirement to have safety management plan)

Section 674—

insert—

- ‘(5) Also, if section 705 applies for an operating plant, the safety management plan must include a principal hazard management plan.’.

85 Amendment of s 675 (Content requirements for safety management plans)

(1) Section 675(1)(f)—

omit, insert—

‘(f) if there is proposed, or there is likely to be, interaction with other operating plant or contractors in the same vicinity, or if there are multiple operating plant with different operators on the same petroleum tenure—

- (i) a description of the proposed or likely interactions, and how they will be managed; and
- (ii) an identification of the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and
- (iii) an identification of the safety responsibilities of each operator;’.

(2) Section 675(1)(g) and (h)—

omit, insert—

‘(g) a skills assessment identifying the minimum skills, knowledge, competencies and experience requirements for each person to carry out specific work;

(h) a training and supervision program containing the mechanism for imparting the skills, knowledge, competencies and experience identified in paragraph (g) and assessing new skills, monitoring performance and ensuring ongoing retention of skill levels;’.

(3) Section 675(1)(n), ‘mechanism’—

omit, insert—

‘mechanisms’.

(4) Section 675(1)(o)—

omit.

(5) Section 675(1)(t), ‘paragraphs (a) to (o)’—

omit, insert—

‘paragraphs (b) to (r)’.

86 Amendment of s 687 (Who is the *executive safety manager* of an operating plant)

(1) Section 687—

insert—

‘(2A) For an operating plant mentioned in section 670(6), the executive safety manager is the senior managing officer of the principal tenure holder.’.

(2) Section 687(4)—

insert—

‘*principal tenure holder* for an operating plant mentioned in section 670(6) is the holder nominated as the principal tenure holder by the holders of the tenure.’.

87 Insertion of new ch 9, pt 4, div 7

In chapter 9, part 4, after section 708—

insert—

‘Division 7 Obligation to comply with safety requirements and instructions

‘708A Offence not to comply with safety requirement

‘(1) A person must comply with all safety requirements.

Maximum penalty—500 penalty units.

‘(2) Subsection (1) does not apply in relation to sections 696, 697, 733 and 734.

‘708B Chief inspector may issue safety alerts and instructions

‘(1) A safety alert is advisory only and may recommend that a person or the general public do or not do something.

‘(2) A safety instruction is a direction requiring a person or the general public to do or not do something.

‘(3) If the chief inspector believes there is a specific safety issue in relation to the petroleum or fuel gas industry, the chief

inspector may issue a safety alert or safety instruction to particular persons or the general public.

- ‘(4) A safety alert or safety instruction—
 - (a) must relate to a specific safety issue in relation to the petroleum or fuel gas industry; and
 - (b) may be inconsistent with relevant safety requirements.
- ‘(5) If a safety instruction is inconsistent with a relevant safety requirement the safety instruction prevails.
- ‘(6) A safety alert or safety instruction is issued by—
 - (a) if the announcement is to particular persons—giving written notice of the announcement to the persons; or
 - (b) if the advice is to the general public in a particular area—by publishing notice of the advice in a newspaper circulating in the area; or
 - (c) if the advice is to the general public throughout the State—by publishing notice of the advice in a newspaper circulating in each city in the State.
- ‘(7) A safety instruction must also be published in the gazette.
- ‘(8) A safety instruction stays in force until the earliest of the following—
 - (a) the expiration of 6 months after the day it is made;
 - (b) the chief inspector cancels the instruction;
 - (c) a regulation replaces the instruction.
- ‘(9) A safety instruction may be amended by the chief inspector while the instruction is in force, but an amendment can not extend the 6 months mentioned in subsection (8)(a).
- ‘(10) A person to whom a safety instruction applies must comply with the instruction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.’.

88 Amendment of s 724 (Types of gas device)

Section 724(3)(d)—

omit.

89 Amendment of s 728 (Who may apply)

Section 728(3)—

omit, insert—

- ‘(3) If the applicant is an individual, the application may also seek an endorsement on any gas work licence issued that its holder also carries out work in relation to gases other than fuel gases.

Examples—

An endorsement that the holder carries out work in relation to the use of hydrogen as transport fuel or the use of oxygen for medical purposes.’.

90 Replacement of s 728B (Interim licence or authorisation)

Section 728B—

omit, insert—

‘728B Interim licence or authorisation

- ‘(1) This section applies if the chief inspector considers that the applicant has not adequately demonstrated that the applicant has the competencies and skills to hold the gas work licence or authorisation applied for.
- ‘(2) The chief inspector may grant the applicant an interim gas work licence or authorisation (the *interim authority*).
- ‘(3) The chief inspector may impose conditions on the interim authority.
- ‘(4) The interim authority must be for a stated term of no more than 1 year.
- ‘(5) The chief inspector may extend the term of the interim authority to a term that ends no more than 1 year after the end of its term as stated in the authority.
- ‘(6) However, the chief inspector may extend the term more than once only if satisfied exceptional circumstances justify the further extension.

- ‘(7) If, within the term of the interim authority, the chief inspector considers the applicant has adequately demonstrated that the applicant has the competencies and skills to hold the gas work licence or authorisation applied for, the chief inspector must—
- (a) grant the application; and
 - (b) cancel the interim authority.
- ‘(8) Otherwise, the chief inspector must refuse the application at the end of the term of the interim authority.’.

91 Amendment of s 876 (Conversion on 2004 Act start day)

Section 876(c), ‘the work program’—

omit, insert—

‘a later work program’.

92 Amendment of s 881 (Additional conditions for renewal application)

Section 881(2)—

omit, insert—

- ‘(2) A converted ATP holder can not apply to renew the converted ATP if section 878³³ applies and the relinquishment condition under that section has not been complied with.
- ‘(3) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 1923 Act lease, the application is invalid.’.

93 Insertion of new s 911A

Chapter 15, part 3, division 7, subdivision 1—

insert—

33 Section 878 (Relinquishment condition if converted ATP includes a reduction requirement)

‘911A Provision for continuance of 1923 Act make good obligation

‘The make good obligation for the replacement tenure applies as if a reference in this Act to the exercise of underground water rights for the replacement tenure included a reference to the taking of water necessarily taken as part of petroleum production under the existing tenure.’.

94 Amendment of s 926 (Provisions for petroleum royalty)

- (1) Section 926(2), ‘the production’—
omit, insert—
‘actual payment of the royalty’.
- (2) Section 926(3), ‘production testing approved’—
omit, insert—
‘petroleum flared or vented under an approval given’.

95 Amendment of s 927 (Corresponding approvals and decisions under 1923 Act for a converted petroleum authority)

- (1) Section 927(1)(a)—
omit, insert—
‘(a) about any of the following under the 1923 Act—
(i) an authority to prospect;
(ii) a petroleum lease;
(iii) a pipeline licence;
(iv) a refinery permission.’.
- (2) Section 927(4), ‘is taken be’—
omit, insert—
‘is also taken to be’.

96 Amendment of s 931 (References in Acts and documents to 1923 Act)

Section 931(2)—

omit, insert—

- ‘(2) However, subsection (1) does not apply if the reference is in relation to a 1923 Act petroleum tenure—
- (a) that, on the 2004 Act start day, does not become a converted petroleum tenure; or
 - (b) until the tenure becomes a replacement tenure, on or after the commencement of the *Petroleum and Other Legislation Amendment Act 2005*.’.

97 Omission of s 935 (Continuation of petroleum royalty exemption for flaring or venting under 1923 Act)

Section 935—

omit.

98 Amendment of s 937 (Existing operating plant)

Section 937(1) to (3)—

omit, insert—

- ‘(1) Until 1 July 2005, chapter 9, parts 2 and 4, (other than part 4, division 7) do not apply to plant operated, or an activity carried out, under this Act.’.

99 Insertion of new ch 15, pt 5

After section 938—

insert—

- ‘(4) On and from the day the area becomes a replacement tenure, the water bore—
- (a) is taken to be a water supply bore under this Act; and
 - (b) may be transferred without complying with section 288(3).

‘938D Decommissioning wells and bores

- ‘(1) Until 1 July 2005, subsection (2) applies to a well or bore mentioned in section 292 instead of section 292(4)(a).
- ‘(2) The well or bore must be plugged and abandoned under the 1923 Act, as the 1923 Act was immediately before the commencement of this section.’

100 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—
- insert—*
- ‘*coal or oil shale mining lease* means a coal mining lease or oil shale mining lease under the Mineral Resources Act.
- converted petroleum tenure* see section 872.
- replacement tenure* see section 908.
- review report* means a report under section 267.’.
- (2) Schedule, definition *make good obligation*, ‘section 250(3)’—
- omit, insert—*
- ‘section 250(4)’.

Part 5 Amendment of Water Act 2000

101 Act amended in pt 5

This part amends the *Water Act 2000*.

102 Amendment of s 203 (Definitions for pt 6)

Section 203, definition *priority group*, after ‘2004’—

insert—

‘or the carrying out of authorised activities under the *Petroleum Act 1923*’.

103 Amendment of s 206 (Applying for a water licence)

Section 206(5)(a)(i), after ‘2004’—

insert—

‘or is water necessarily produced as a result of the carrying out of authorised activities under the *Petroleum Act 1923*’.

104 Amendment of s 227 (Cancelling water licence)

(1) Section 227(2)—

omit, insert—

‘(2) Without limiting subsection (1), the chief executive may cancel a water licence granted to a petroleum tenure holder if—

(a) the petroleum tenure ends; or

(b) if the petroleum tenure is a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—the licensee ceases to carry out, under that Act, any of the following and has not stored an appropriate amount of associated water under that Act—

(i) approved testing for petroleum production;

(ii) petroleum production for commercial purposes; or

(c) if the petroleum tenure is an authority to prospect under the *Petroleum Act 1923*, the licensee—

(i) ceases to carry out, under that Act, testing for petroleum production in accordance with the instrument for the authority to prospect; and

(ii) has not stored an appropriate amount of associated water under that Act; or

- (d) if the petroleum tenure is a petroleum lease under the *Petroleum Act 1923*, the licensee—
 - (i) ceases to carry out, under that Act, petroleum production for commercial purposes; and
 - (ii) has not stored an appropriate amount of associated water under that Act.’.

Part 6 Minor amendments

105 Minor amendments

The schedule amends the Acts it mentions.

Schedule Minor amendments of Acts

section 105

Coal Mining Safety and Health Act 1999

- 1 **Schedule 2, part 1, item 2B, ‘drill holes’—**
omit, insert—
‘boreholes’.

- 2 **Schedule 3, definition *coal mining operations*,**
‘incidental’—
omit.

- 3 **Schedule 3, definition *surface mine*, paragraph (b),**
example, ‘incidental’—
omit.

- 4 **Schedule 3, definition *underground mine*, example,**
‘incidental’—
omit.

Environmental Protection Act

- 5 **Section 78, after ‘to which the’—**
insert—
‘activity’.

Schedule (continued)

6 Section 96—*omit, insert—***‘96 Deciding applications**

‘The administering authority must, within 20 business days after the application date, decide to grant or refuse the application.’.

Forestry Act 1959**6A Section 5, definition *Mining Acts*, ‘, *Petroleum and Gas (Production and Safety) Act 2004*’—***omit.***Mineral Resources Act 1989****7 Section 742, ‘part’—***omit, insert—*

‘division’.

8 Part 7AA, ‘coal mining lease or oil shale mining lease’—*omit, insert—*

‘coal or oil shale mining lease’.

9 Part 7AA, ‘coal mining lease holder or oil shale mining lease holder’—*omit, insert—*

‘coal or oil shale mining lease holder’.

10 Schedule—*insert—*

Schedule (continued)

‘coal or oil shale mining lease means a coal mining lease or oil shale mining lease.’.

Petroleum Act 1923**10A Section 25G(2)(d)(ii), ‘573’—**

omit, insert—

‘25J’.

11 Section 25L(2)(a), ‘renewed’—

omit, insert—

‘replaced’.

12 Section 40A(2), ‘to happen’—

omit.

12A Section 74B(2), ‘does’—

omit, insert—

‘does not’.

12B Section 74O, note 3, ‘subdivision 3’—

omit, insert—

‘subdivision 2’.

12C Section 74Q(1), note 1, ‘subdivision 3’—

omit, insert—

‘subdivision 2’.

Schedule (continued)

- 13 Section 74Q(5), ‘work program’—**
omit, insert—
‘development plan’.
- 14 Section 74S(4), incidental’—**
omit.
- 14A Section 74V(3)(b), ‘lease’—**
omit, insert—
‘tenure’.
- 15 Section 74X(1)(a) and (b), ‘authority’—**
omit, insert—
‘tenure’.
- 16 Section 76B(5)(b), ‘subsection (2)’—**
omit, insert—
‘subsection (3)’.
- 17 Sections 76I(1)(b), 76O(c), 76Q, 76V(1)(b), 77Z(1) and 154 and part 6F, division 2, subdivision 2, heading, ‘coal mining lease or oil shale mining lease’—**
omit, insert—
‘coal or oil shale mining lease’.
- 18 Section 76J(2), ‘renewal’—**
omit, insert—
‘granting or renewal’.

Schedule (continued)

- 19 Section 76J(2), ‘renewed’—**
omit, insert—
‘granted or renewed’.
- 20 Part 6F, division 3, subdivision 1, heading—**
omit.
- 21 Section 76T, heading, ‘sdiv 1’—**
omit, insert—
‘div 3’.
- 22 Section 76T, ‘subdivision’—**
omit, insert—
‘division’.
- 23 Part 6F, division 4, subdivision 3, heading, ‘conditions’—**
omit, insert—
‘other conditions’.
- 24 Section 78D(2)(c), ‘this Act’—**
omit, insert—
‘this Act or the 2004 Act’.
- 25 Section 78V(3), ‘occupier’—**
omit, insert—
‘occupiers’.
- 26 Section 79K(2)(b), ‘petroleum’—**
omit.

Schedule (continued)

- 27 Section 79M(1), ‘tenure or’—**
omit, insert—
‘tenure, a 2004 Act petroleum authority or’.
- 28 Section 79N, ‘Act or’—**
omit, insert—
‘Act, a 2004 Act lease or’.
- 29 Section 79O(1), from ‘is an authority’ to ‘mining lease’—**
omit, insert—
‘is not a mining lease, a 2004 Act lease or a petroleum lease’.
- 30 Section 79Q(4)(b), example 2, ‘petroleum lease’—**
omit, insert—
‘lease’.
- 31 Section 79X(1), ‘on land’—**
omit, insert—
‘land’.
- 32 Section 79X(4)(b), ‘sale’—**
omit, insert—
‘a power of sale’.
- 33 Section 80(4)(b), ‘sale’—**
omit, insert—
‘a power of sale’.

Schedule (continued)

34 Section 155(1) ‘the work program’—*omit, insert—*

‘a later work program’.

Petroleum and Gas (Production and Safety) Act 2004**35 Sections 15(2), 93(1)(b), 113(a), 296(1)(b), 303(c), 306(1)(b), 307(1)(a)(ii), 315 to 317, 335(1)(a)(ii), 340(3)(b), 343, 344, 351, 359, 365(1)(a), 378(2), 379(1) and 383, chapter 3, part 2, division 1, subdivision 5, chapter 3, part 3, division 2, headings and schedule 2, definition *petroleum producer*, ‘coal mining lease or oil shale mining lease’—***omit, insert—*

‘coal or oil shale mining lease’.

36 Section 40(1)(b)(ii), ‘lease’—*omit, insert—*

‘authority’.

37 Section 178(7)(a), ‘first year of the renewed’—*omit.***38 Section 184A, ‘annual’—***omit.***39 Section 192(6)(a), ‘renewed’—***omit.*

Schedule (continued)

- 40 Section 197, ‘subdivision’—**
omit, insert—
‘division’.
- 41 Sections 234, 348, 349(1), 350(1)(a), 351(a) and 378(2), chapter 3, part 3, divisions 2 and 3 and chapter 3, part 4, division 2, headings, ‘coal mining lease holder or oil shale mining lease holder’—**
omit, insert—
‘coal or oil shale mining lease holder’.
- 42 Section 256(2)(b), after ‘petroleum tenures’—**
insert—
‘or 1923 Act petroleum tenures’.
- 43 Section 269(2), ‘that effect’—**
omit, insert—
‘that the effect’.
- 44 Section 288(3)(a)—**
omit.
- 45 Section 305(2)(c) and (3), ‘, division 1’—**
omit.
- 46 Sections 315(1)(a), 316(2) and 317(2), ‘coal mining lease application or an oil shale mining lease application’—**
omit, insert—
‘coal or oil shale mining lease application’.

Schedule (continued)

- 47 Section 379(1), after ‘applies’—**
insert—
‘, despite chapter 5, part 10.’.
- 48 Section 383A(b), ‘coal mining tenement or oil shale mining tenement’—**
omit, insert—
‘coal or oil shale mining tenement’.
- 49 Section 388(1)(c), ‘mineable coal seams’—**
omit, insert—
‘coal’.
- 50 Section 441(2), ‘that relate to the native title’—**
omit.
- 51 Section 471(2), ‘to enter the land’—**
omit.
- 52 Section 489(1), ‘may’—**
omit, insert—
‘may, at any time.’.
- 53 Section 497(3), note—**
omit.
- 54 Section 513(3), ‘occupier’**
omit, insert—
‘occupiers’.

Schedule (continued)

- 55 Section 528(1), ‘authority or’—**
omit, insert—
‘authority, a 1923 Act petroleum tenure or’.
- 56 Sections 529 and 530(1), ‘mining or’—**
omit, insert—
‘mining lease, a 1923 Act lease or a’.
- 57 Section 539(1), ‘on land’—**
omit, insert—
‘land’.
- 58 Section 539(4)(b) and 542(4)(b), ‘sale’—**
omit, insert—
‘a power of sale’.
- 59 Section 553(2), ‘subsection (1)(b)’—**
omit, insert—
‘subsection (1)’.
- 60 Section 562(b), ‘3 and 4’—**
omit, insert—
‘3, 4 and 9’.
- 61 Section 690(1)(e) to (g)—**
renumber as 690(1)(e) to (h).
- 62 Section 728C(4)—**
omit.

Schedule (continued)

- 63 Section 733(3), ‘if’—**
omit, insert—
‘only if’.
- 64 Section 799A(3), ‘to prospect’—**
omit.
- 64A Section 802(1)(a)(i)—**
omit, insert—
‘(i) carried out under this Act or the 1923 Act and under the authority of a petroleum tenure or a 1923 Act petroleum tenure; or’.
- 65 Section 872, definition *relevant 1923 Act ATP*, second occurring, ‘ATP’—**
omit, insert—
‘lease’.
- 66 Sections 877(1)(b) and 903(1)(b), ‘coal mining lease or oil shale mining lease’—**
omit, insert—
‘coal or oil shale mining tenement’.
- 66A Section 878(4), ‘2004’—**
omit, insert—
‘1923’.
- 66B Section 893, ‘lease numbered 195’—**
omit, insert—
‘leases numbered 194, 195, 198, 209, 220 and 226’.

Schedule (continued)

- 67 Section 896(2), ‘schedule 4’—**
omit, insert—
‘schedule 2’.
- 68 Section 898(1), ‘898’—**
omit, insert—
‘897’.
- 69 Section 910(2)(c)(ii), ‘1923 Act lease’—**
omit, insert—
‘1923 Act lease holder’.
- 70 Section 922(5), ‘1923 Act former’—**
omit, insert—
‘former 1923 Act’.
- 71 Section 934A(1), all words after ‘tenure’—**
omit, insert—
‘under which petroleum production is carried out before 30 June 2005.’.
- 72 Section 934A(7), ‘subsection (5)’—**
omit, insert—
‘subsection (6)’.