



Queensland

Mines and Energy Legislation Amendment Act 2009

Act No. 16 of 2009



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Mines and Energy Legislation Amendment Act 2009

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Queensland

Mines and Energy Legislation Amendment Act 2009

Act No. 16 of 2009

An Act to amend the Coal Mining Safety and Health Act 1999, Electricity Act 1994, Electricity—National Scheme (Queensland) Act 1997, Explosives Act 1999, Gas Supply Act 2003, Mineral Resources Act 1989, Mining and Quarrying Safety and Health Act 1999, Petroleum Act 1923 and Petroleum and Gas (Production and Safety) Act 2004 for particular purposes

[Assented to 12 June 2009]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mines and Energy Legislation Amendment Act 2009*.

2 Commencement

- (1) Sections 15, 25 and 26(1) commence on 1 July 2010.
- (2) The remaining provisions of this Act, other than part 4, commence on a day to be fixed by proclamation.

Part 2 Amendment of Coal Mining Safety and Health Act 1999

3 Act amended

This part amends the *Coal Mining Safety and Health Act 1999*.

4 Amendment of s 6 (Objects of Act)

Section 6—

insert—

- ‘(c) to provide a way of monitoring the effectiveness and administration of provisions relating to safety and health under this Act and other mining legislation.’.

5 Amendment of s 7 (How objects are to be achieved)

Section 7—

insert—

- ‘(1) establishing the office of Commissioner for Mine Safety and Health.’.

6 Insertion of new pt 5A

After part 5—

insert—

‘Part 5A Commissioner for Mine Safety and Health

‘Division 1 Establishment and appointment of commissioner

‘73A Appointment of commissioner

- ‘(1) There is to be a Commissioner for Mine Safety and Health.
- ‘(2) The commissioner is to be appointed by the Governor in Council by gazette notice.
- ‘(3) Despite the *Public Service Act 2008*, section 8, the commissioner is a public service officer employed under the *Public Service Act 2008*, and not under this Act.
- ‘(4) A person may hold the office of commissioner as well as another position under the *Public Service Act 2008*.

‘73B Qualifications for appointment

‘To be appointed as commissioner, a person must have—

- (a) a science or engineering qualification relevant to the mining industry; and
- (b) professional experience in mine safety.

[s 7]

‘73C Commissioner’s functions

‘The functions of the commissioner are—

- (a) to advise the Minister on mine health and safety matters generally; and
- (b) to fulfil the roles of chairperson of the coal mining safety and health advisory council and chairperson of the mining safety and health advisory council under the *Mining and Quarrying Safety and Health Act 1999*; and
- (c) to monitor and report to the Minister and to Parliament on the administration of provisions about safety and health under this Act and other mining legislation; and
- (d) to perform the functions given to the commissioner under the provisions of this Act and other mining legislation.

‘73D Commissioner’s powers

‘The commissioner has the powers necessary or convenient to perform the commissioner’s functions.

‘Division 2 Report by commissioner

‘73E Annual report

- ‘(1) As soon as practicable, but within 4 months, after the end of each financial year, the commissioner must prepare and give to the Minister a report on the performance of the department in regulating mine safety.
- ‘(2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.’

7 Amendment of s 77 (Annual report)

Section 77(1), ‘the council’—

omit, insert—

‘the commissioner, as chairperson of the council.’

8 Amendment of s 78 (Membership of council)

Section 78(2)—

omit, insert—

‘(2) The chairperson of the council is the commissioner.’

9 Amendment of s 255 (Proceedings for offences)

Section 255(5), ‘chief executive’—

omit, insert—

‘commissioner’.

10 Amendment of s 257 (Limitation on time for starting proceedings)

(1) Section 257, after ‘start’—

insert—

‘within the latest of the following periods to end’.

(2) Section 257(a)—

omit, insert—

‘(a) 1 year after the commission of the offence;’.

(3) Section 257(b), ‘within’, first mention—

omit.

(4) Section 257—

insert—

‘(c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the *Coroners Act 2003*—2 years after the coroner makes a finding in relation to the death.’

[s 11]

11 Insertion of new ss 275AA and 275AB

Part 17, division 1—

insert—

‘275AA Protection from reprisal

- ‘(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, the other person—
- (a) has made a complaint, or in any other way has raised, a coal mine safety issue; or
 - (b) has contacted or given help to an official in relation to a coal mine safety issue.

Maximum penalty—40 penalty units.

- ‘(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.
- ‘(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.
- ‘(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.
- ‘(5) For the contravention to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.
- ‘(6) This section does not limit or otherwise affect the operation of the *Whistleblowers Protection Act 1994*, part 5, division 3.
- ‘(7) In this section—
- coal mine safety issue* means an issue about the safety or health of a person or persons while at a coal mine or as a result of coal mining operations.

‘275AB Damages entitlement for reprisal

- ‘(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.

-
- ‘(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.
- ‘(3) If the claim for the damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.’.

12 Amendment of s 276 (Protection from liability)

- (1) Section 276(1)—
insert—
‘Example of an act done—
giving information or advice’.
- (2) Section 276(3)—
omit.

13 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

*‘***commissioner** *means the Commissioner for Mine Safety and Health.*

official means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) the commissioner; or
- (d) the chief inspector; or
- (e) an inspector; or
- (f) an inspection officer; or
- (g) an authorised officer; or
- (h) a person acting under the direction of or helping an inspector, inspection officer or authorised officer; or

17 Amendment of s 135AJ (Who are the *baseline customers* of a power station)

Section 135AJ(2)(b), ‘NEMMCO’—

omit, insert—

‘AEMO’.

18 Amendment of s 135D (Information notice about decision)

Section 135D(2), ‘NEMMCO’—

omit, insert—

‘AEMO’.

19 Amendment of s 135DD (Adjustment for other customer transfers)

Section 135DD(b), ‘NEMMCO’—

omit, insert—

‘AEMO’.

20 Amendment of s 135FR (Operation of sdiv 1)

Section 135FR(2)(b), ‘NEMMCO’—

omit, insert—

‘AEMO’.

21 Amendment of s 135FS (Retailer)

Section 135FS(2)(a), ‘NEMMCO’—

omit, insert—

‘AEMO’.

[s 22]

22 Amendment of s 135FT (Special approval holder)

Section 135FT(3), ‘NEMMCO’—

omit, insert—

‘AEMO’.

23 Amendment of s 135FW (Wholesale purchaser from spot market)

Section 135FW(a), ‘NEMMCO’—

omit, insert—

‘AEMO’.

24 Amendment of s 135JU (Obligation of State to indemnify particular information-givers)

Section 135JU(3), definition *relevant entity*, paragraph (a), ‘NEMMCO’—

omit, insert—

‘AEMO’.

25 Insertion of new ch 14, pt 9

Chapter 14—

insert—

‘Part 9 Transitional provision for Mines and Energy Legislation Amendment Act 2009

‘326 Existing distribution service pricing for Mount Isa–Cloncurry supply network

‘(1) This section applies if, immediately before 1 July 2010—

-
- (a) the owner of the Mount Isa–Cloncurry supply network provides customer connection services relating to the supply network; and
 - (b) the pricing regulation made by QCA, under the direction made by the Minister under section 89B(2) to regulate the pricing for the services, is still in force; and
 - (c) the Australian Energy Regulator has not made a distribution determination, within the meaning of the National Electricity Rules, for the supply network for the relevant regulatory control period.

Note—

See the *Electricity—National Scheme (Queensland) Act 1997*, section 10 (Economic regulation of Mount Isa–Cloncurry supply network from 1 July 2010).

- ‘(2) The pricing regulation is taken to be a jurisdictional pricing determination under the National Electricity Rules, clause 11.14.2 for the services.
- ‘(3) For applying the National Electricity Rules—
 - (a) the services are taken to be distribution services for the National Electricity Rules; and
 - (b) the Mount Isa–Cloncurry supply network is taken to be a distribution system.
- ‘(4) The National Electricity Rules apply with any necessary changes to give effect to this section.
- ‘(5) In this section—

amending Act means the *Mines and Energy Legislation Amendment Act 2009*.

Mount Isa–Cloncurry supply network—

- (a) means the supply network, other than the 220kV supply network—
 - (i) located in the Mount Isa–Cloncurry region; and
 - (ii) owned by Ergon Energy immediately before the date of assent for the amending Act; and

[s 26]

- (iii) not connected to the national grid; and
- (b) includes any increase in the supply network after the date of assent for the amending Act.

relevant regulatory control period means the regulatory control period, within the meaning of the National Electricity Rules, starting on 1 July 2010.’.

26 Amendment of sch 5 (Dictionary)

- (1) Schedule 5, definition *Mount Isa-Cloncurry supply network*—
omit.
- (2) Schedule 5, definition *NEMMCO*—
omit.
- (3) Schedule 5—
insert—
‘*AEMO* has the meaning given in the National Electricity (Queensland) Law.’.
- (4) Schedule 5, definition *financially responsible retail entity*, paragraph (b)(i), ‘*NEMMCO*’—
omit, insert—
‘*AEMO*’.

Part 4 Amendment of Electricity—National Scheme (Queensland) Act 1997

27 Act amended

This part amends the *Electricity—National Scheme (Queensland) Act 1997*.

28 Amendment of s 3 (Definitions)

Section 3(1)—

insert—

‘**AER** has the meaning given in the National Electricity (Queensland) Law.’.

29 Insertion of new pt 3

After section 9—

insert—

‘Part 3 Mount Isa–Cloncurry supply network

‘10 Economic regulation of Mount Isa–Cloncurry supply network from 1 July 2010

- ‘(1) The AER is responsible for the economic regulation under the National Electricity Rules, chapters 6 and 11, for a relevant regulatory control period, of distribution services provided by means of, or in connection with, the Mount Isa–Cloncurry supply network as if the supply network were part of the national grid.

Editor’s note—

National Electricity Rules, chapters 6 (Economic regulation of distribution services) and 11 (Savings and transitional rules)

- ‘(2) For applying the National Electricity Rules, chapters 6 and 11—
- (a) the distribution services are taken to be distribution services for the National Electricity Rules; and
 - (b) the Mount Isa–Cloncurry supply network is taken to be a distribution system.
- ‘(3) The chapters apply with any necessary changes to give effect to this section.
- ‘(4) In this section—

[s 29]

Mount Isa–Cloncurry supply network—

- (a) means the supply network as defined under the *Electricity Act 1994*, section 8, other than the 220kV supply network—
 - (i) located in the Mount Isa–Cloncurry region; and
 - (ii) owned by Ergon Energy at the commencement of this section; and
 - (iii) not connected to the national grid; and
- (b) includes any increase in the supply network after the commencement.

National Electricity Rules has the meaning given in the National Electricity (Queensland) Law.

national grid has the meaning given in the National Electricity Rules.

relevant regulatory control period means—

- (a) the regulatory control period, within the meaning of the National Electricity Rules, starting on 1 July 2010; and
- (b) any regulatory control period after the regulatory control period mentioned in paragraph (a).

‘11 Law to be construed not to exceed legislative power of Legislature

- ‘(1) Clause 2 of schedule 2 to the National Electricity (Queensland) Law has effect in relation to the operation of any provision of this Act, or any regulation forming part of the National Electricity (Queensland) Regulations, as if the provision or regulation formed part of the National Electricity (Queensland) Law.
- ‘(2) Subsection (1) does not limit the effect that a provision or regulation would validly have apart from the subsection.’

[s 33]

- (a) has made a complaint, or in any other way has raised, an explosives safety issue; or
- (b) has contacted or given help to an official in relation to an explosives safety issue.

Maximum penalty—40 penalty units.

- ‘(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.
- ‘(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.
- ‘(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.
- ‘(5) For the contravention to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.
- ‘(6) This section does not limit or otherwise affect the operation of the *Whistleblowers Protection Act 1994*, part 5, division 3.
- ‘(7) In this section—
explosives safety issue means an issue about the safety or health of a person or persons while dealing with explosives.

‘126B Damages entitlement for reprisal

- ‘(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.
- ‘(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.
- ‘(3) If the claim for the damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.’

33 Amendment of s 127 (Protection from liability)

- (1) Section 127(1)—

insert—

*‘Example of an act done—
giving information or advice’.*

(2) Section 127(3)—

omit.

34 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘commissioner for mine safety and health means the Commissioner for Mine Safety and Health established under the *Coal Mining Safety and Health Act 1999*.

official means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) the commissioner for mine safety and health; or
- (d) an inspector; or
- (e) a person acting under the direction of an inspector; or
- (f) a person helping an inspector in a dangerous situation.

reprisal see section 126A.’.

Part 6 Amendment of Gas Supply Act 2003

35 Act amended

This part amends the *Gas Supply Act 2003*.

[s 36]

36 Amendment of s 3 (Main purposes of Act)

(1) Section 3(2)(a), ‘markets’—

omit, insert—

‘services’.

(2) Section 3(2)(b)—

omit.

(3) Section 3(2)(c)—

renumber as section 3(2)(b).

37 Amendment of s 57 (Conditions for amendment, cancellation or suspension)

Section 57(2)(b)—

insert—

‘(vi) the gas retail market procedures if AEMO decides under the *National Gas (Queensland) Law*, section 91MB, the contravention is a material breach of the procedures; or

Editor’s note—

National Gas (Queensland) Law, section 91MB
(Compliance with Retail Market Procedures)’.

38 Amendment of s 181 (Conditions for amendment, cancellation or suspension)

Section 181(2)(b)—

insert—

‘(vi) the gas retail market procedures if AEMO decides under the *National Gas (Queensland) Law*, section 91MB, the contravention is a material breach of the procedures; or

Editor’s note—

National Gas (Queensland) Law, section 91MB
(Compliance with Retail Market Procedures)’.

-
- 39 Amendment of s 204 (Standard retail contract for particular small customers)**
Section 204(3)(b), ‘an industry code’—
omit, insert—
‘the gas retail market procedures’.
- 40 Amendment of s 207 (Ending of standard retail contract)**
Section 207(1)(b), ‘an industry code’—
omit, insert—
‘the gas retail market procedures’.
- 41 Amendment of s 248 (Regulation may provide for scheme)**
Section 248(b), ‘the GRMO’—
omit, insert—
‘AEMO’.
- 42 Amendment of s 254 (Minister’s power to give directions while declaration in force)**
Section 254(1)(c)—
omit, insert—
‘(c) AEMO.’.
- 43 Omission of ch 4A (Gas retail market operator)**
Chapter 4A—
omit.

[s 44]

44 Amendment of s 270B (Specific matters for which code may provide)

Section 270B(e) to (g)—
omit.

45 Insertion of new s 289A

After section 289—
insert—

‘289A Restriction on providing gas retail market services

‘(1) A person other than the following must not provide gas retail market services to someone else—

- (a) AEMO;
- (b) a director or other officer of AEMO acting within the scope of the person’s directorship or other office with AEMO;
- (c) an employee of AEMO acting within the course of the employee’s employment with AEMO.

Maximum penalty—500 penalty units.

‘(2) In this section—

gas retail market services means services provided by AEMO to others as the operator of the gas retail market.’.

46 Amendment of s 315 (Protection from civil liability for particular persons)

(1) Section 315(1)(e) to (g)—
omit.

(2) Section 315(1)(h)—
renumber as section 315(1)(e).

47 Omission of s 321A (Delegation by QCA)

Section 321A—

omit.

48 Amendment of s 323 (Regulation-making power)

(1) Section 323(2)(a) and (b)—

renumber as section 323(b) and (c).

(2) Section 323(2)—

insert—

‘(a) any matter that may, under the *National Gas (Queensland) Law*, be prescribed under jurisdictional gas legislation;’.

49 Replacement of ch 7 hdg (Transitional provisions for Electricity and Other Legislation Amendment Act 2006)

Chapter 7, heading—

omit, insert—

‘Chapter 7 Transitional provisions

‘Part 1 Transitional provisions for Electricity and Other Legislation Amendment Act 2006’.

50 Amendment of s 324 (Definitions for ch 7)

(1) Section 324, heading, ‘ch 7’—

omit, insert—

‘pt 1’.

(2) Section 324, ‘chapter’—

[s 51]

omit, insert—

‘part’.

51 Insertion of new ch 7, pt 2

After section 333—

insert—

‘Part 2 Transitional provision for Mines and Energy Legislation Amendment Act 2009

‘334 Continued protection from civil liability for particular persons

‘(1) This section applies to each of the following persons (a *relevant person*)—

- (a) the GRMO;
- (b) a director or other officer of the GRMO acting within the scope of the person’s directorship or other office with the GRMO;
- (c) an employee of the GRMO acting within the course of the employee’s employment with the GRMO.

‘(2) Section 315(2) to (4) continues to apply to a relevant person.

‘(3) In this section—

GRMO means a body corporate—

- (a) appointed by the Minister under section 257A, as in force immediately before the commencement of this section, to be the gas retail market operator; and
- (b) in existence as the operator immediately before the commencement of this section.’.

52 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *advisory committee*, *Gas Pipelines Access Law*, *gas retail market services* and *GRMO*—

omit.

- (2) Schedule 2—

insert—

‘**AEMO** has the meaning given under the *National Gas (Queensland) Law*.

gas retail market procedures means—

- (a) the retail market procedures made under the *National Gas (Queensland) Law*, section 294A, that regulate the Queensland retail gas market (the **initial procedures**); and
- (b) the retail market procedures made by AEMO under the *National Gas (Queensland) Law*, section 91M, that regulate the Queensland retail gas market, including procedures that amend—
- (i) the initial procedures; or
- (ii) other procedures made by AEMO.

Editor’s note—

- *National Gas (Queensland) Law*, section 294A (South Australian Minister to make initial Rules and Procedures related to AEMO’s functions under this Law)
- *National Gas (Queensland) Law*, section 91M (Retail Market Procedures)

National Gas Law means both of the following—

- (a) the *National Gas (Queensland) Act 2008*;
- (b) the *National Gas (Queensland) Law*.’.
- (3) Schedule 2, definition *approved access arrangement*, ‘Gas Pipelines Access Law’—

omit, insert—

‘National Gas Law’.

-
- 55 Amendment of s 249 (Later applicant must obtain consent or views of earlier applicant if same land affected)**
Section 249(2)(b)—
omit, insert—
'(b) a specific purpose mining lease.'
- 56 Amendment of s 269 (Land Court's recommendation on hearing)**
Section 269(4)(c), 'mineralised'—
omit, insert—
'mineralised,'.
- 57 Amendment of s 286 (Application for renewal of mining lease)**
Section 286(1), from 'apply'—
omit, insert—
'apply to the Minister for a renewal of the lease by lodging an application with the mining registrar.'
- 58 Amendment of s 290 (Rental payable on mining lease)**
Section 290(8), 'section 286(8)'—
omit, insert—
'section 286C'.
- 59 Amendment of s 294 (Variation of conditions of mining lease)**
Section 294(2), 'same, or substantially the same'—
insert—
'same or substantially the same as'.

[s 60]

60 Amendment of s 695 (Applying div 4 for renewal)

Section 695(5)(d), ‘section 286(3)’—

omit, insert—

‘section 286A(1)’.

Part 8 Amendment of Mining and Quarrying Safety and Health Act 1999

61 Act amended

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

62 Amendment of s 68 (Annual report)

Section 68(1), ‘the council’—

omit, insert—

‘the commissioner, as chairperson of the council,’.

63 Amendment of s 69 (Membership of council)

Section 69(2)—

omit, insert—

‘(2) The chairperson of the council is the commissioner.’.

64 Amendment of s 234 (Proceedings for offences)

Section 234(5), ‘chief executive’—

omit, insert—

‘commissioner’.

65 Amendment of s 235 (Recommendation to prosecute)

- (1) Section 235(1), ‘chief executive’—
omit, insert—
‘commissioner’.
- (2) Section 235(2), ‘chief executive’s’—
omit, insert—
‘commissioner’s’.

66 Amendment of s 236 (Limitation on time for starting proceedings)

- (1) Section 236, after ‘start’—
insert—
‘within the latest of the following periods to end’.
- (2) Section 236(a)—
omit, insert—
‘(a) 1 year after the commission of the offence;’.
- (3) Section 236(b), ‘within’—
omit.
- (4) Section 236—
insert—
‘(c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the *Coroners Act 2003*—2 years after the coroner makes a finding in relation to the death.’.

67 Insertion of new ss 254A and 254B

- Part 16, division 1—
insert—

[s 67]

‘254A Protection from reprisal

- ‘(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, the other person—
- (a) has made a complaint, or in any other way has raised, a mine safety issue; or
 - (b) has contacted or given help to an official in relation to a mine safety issue.

Maximum penalty—40 penalty units.

- ‘(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.
- ‘(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.
- ‘(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.
- ‘(5) For the contravention to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.
- ‘(6) This section does not limit or otherwise affect the operation of the *Whistleblowers Protection Act 1994*, part 5, division 3.
- ‘(7) In this section—
- mine safety issue* means an issue about the safety or health of a person or persons while at a mine or as a result of mining operations.

‘254B Damages entitlement for reprisal

- ‘(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.
- ‘(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

- ‘(3) If the claim for the damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.’

68 Amendment of s 256 (Protection from liability)

- (1) Section 256(1)—

insert—

‘Example of an act done—

giving information or advice’.

- (2) Section 256(3)—

omit.

69 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

*‘**commissioner** means the Commissioner for Mine Safety and Health under the *Coal Mining Safety and Health Act 1999*.*

***official** means—*

- (a) the Minister; or
- (b) the chief executive; or
- (c) the commissioner; or
- (d) the chief inspector; or
- (e) an inspector; or
- (f) an inspection officer; or
- (g) an authorised officer; or
- (h) a person acting under the direction of or helping an inspector, inspection officer or authorised officer; or
- (i) a member or a substitute member of the council; or

-
- (3) Section 121(4)—
renumber as section 121(5).
- (4) Section 121(3)—
omit, insert—
- ‘(3) For subsection (1)(b), the notice may require the statutory declaration—
- (a) to be made by an appropriately qualified person or by the applicant; or
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
- ‘(4) If the applicant does not comply with the requirement, the decider may refuse the application.’.

Part 10 Amendment of Petroleum And Gas (Production And Safety) Act 2004

72 Act amended

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

73 Amendment of s 35 (Call for tenders)

Section 35(2)(d)—

omit, insert—

‘(d) that the tenders must be lodged before the closing time for the call at the place stated in the call; and’.

74 Amendment of s 37 (Requirements for making tender)

Section 37(b)—

[s 75]

omit, insert—

‘(b) be lodged at the place for lodging tenders for proposed authorities to prospect, as stated in the call; and’.

75 Amendment of s 109 (Exploration, production and storage activities)

Section 109(1)(b)(iii), ‘petroleum storage’—

omit, insert—

‘storage of petroleum or a prescribed storage gas’.

76 Amendment of s 110 (Petroleum pipeline and water pipeline construction and operation)

(1) Section 110(2)(b)—

omit, insert—

‘(b) the area of 1 or more other petroleum leases contiguous to the lease that—

(i) are also held by the holder of the lease; or

(ii) are the subject of a coordination arrangement between the holder of the lease and the holder for each contiguous lease.’

(2) Section 110(3), ‘subsection (2)(b)’—

omit, insert—

‘subsection (2)(b)(i)’.

77 Amendment of s 121 (Requirements for grant)

Section 121, ‘petroleum storage’—

omit, insert—

‘storage of petroleum or a prescribed storage gas’.

78 Amendment of s 228 (Prohibition on actions preventing access)

Section 228(1), ‘petroleum storage’—

omit, insert—

‘storage of petroleum or a prescribed storage gas’.

79 Amendment of s 401 (Construction and operation of pipeline)

Section 401(2), ‘subsection (1)(b)’—

omit, insert—

‘subsection (1)’.

80 Insertion of new ch 9, pt 4A

Chapter 9—

insert—

‘Part 4A Other safety offences

‘708C Protection from reprisal

‘(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, the other person—

(a) has made a complaint, or in any other way has raised, an operating plant safety issue; or

(b) has contacted or given help to an official, an executive safety manager or a site safety manager in relation to an operating plant safety issue.

Maximum penalty—40 penalty units.

‘(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

‘(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

[s 81]

- ‘(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.
- ‘(5) For the contravention to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.
- ‘(6) This section does not limit or otherwise affect the operation of the *Whistleblowers Protection Act 1994*, part 5, division 3.
- ‘(7) In this section—
operating plant safety issue means an issue about the safety or health of a person or persons while at an operating plant or as a result of operating plant operations.

‘708D Damages entitlement for reprisal

- ‘(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.
- ‘(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.
- ‘(3) If the claim for the damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.’.

81 Amendment of s 800 (Restriction on petroleum tenure activities)

Section 800(3)(b), ‘petroleum storage’—

omit, insert—

‘storage of petroleum or a prescribed storage gas’.

82 Amendment of s 837 (Offences under Act are summary)

- (1) Section 837(2)(b)—

omit, insert—

‘(b) can be started only by complaint of the commissioner.’.

(2) Section 837(4)—

insert—

‘(c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the *Coroners Act 2003*—2 years after the coroner makes a finding in relation to the death.’.

83 Amendment of s 843 (Additional information may be required about application)

(1) Section 843(1)(a)—

insert—

Example—

The application is for a petroleum lease. The Minister may require a document, prepared by an appropriately qualified person, independently verifying reserve data given in the proposed development plan for the petroleum lease.’.

(2) Section 843(1)(b)—

omit, insert—

‘(b) an independent report by an appropriately qualified person or a statutory declaration verifying all or any of the following—

- (i) any information included in the application;
- (ii) any additional information required under paragraph (a);
- (iii) if the application is for a petroleum tenure—that the applicant meets the relevant capability criteria under chapter 2.’.

(3) Section 843(4) and (5)—

renumber as section 843(5) and (6).

(4) Section 843(3)—

omit, insert—

[s 84]

- ‘(3) For subsection (1)(b), the notice may require the statutory declaration—
- (a) to be made by an appropriately qualified person or by the applicant; or
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
- ‘(4) If the applicant does not comply with the requirement, the decider may refuse the application.’.

84 Amendment of s 856 (Protection from liability for particular persons)

Section 856(1)—

insert—

‘*Example of an act done—*

giving information or advice’.

85 Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Section 910(1)(b)(i)—

omit, insert—

‘(i) chapter 2, part 2, division 6, other than sections 161(2) and (3), 162(1)(a) and (h) and 163;’.

86 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

‘*commissioner* means the Commissioner for Mine Safety and Health under the *Coal Mining Safety and Health Act 1999*.

reprisal see section 708C.’.

- (2) Schedule 2, definition *official*, after ‘chief executive,’—
insert—
‘the commissioner,’.

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