

Mineral and Energy Resources (Common Provisions) Bill 2014

Erratum to Explanatory Notes

Title of the Bill

Mineral and Energy Resources (Common Provisions) Bill 2014

Reasons for Erratum

The erratum is necessary to clarify explanations and correct minor editorial errors.

Explanatory Notes

Policy objectives and the reasons for them

Overlapping Tenure Framework – Coal and Petroleum (CSG)

Omit paragraph 7 and insert ‘Queenslanders will also benefit more broadly from the contributions made to the economy through increased investment in the resources sector and from royalties collected from the optimised realisation of the State’s mineral and petroleum resources.’

Achievement of policy objectives

Overlapping Tenure Framework – Coal and Petroleum (CSG)

Right of way for coal

Omit paragraph 1 and insert ‘The ‘right of way’ principle will operate by allowing for the coexistence of coal and petroleum (CSG) tenures over the same area, with petroleum (CSG) resource authority holder rights to be temporarily suspended (subject to notice periods and compensation requirements) within those areas of the coal mining lease where sole occupancy is required for safe and efficient coal mining operations.’

Results of Consultation

Land Access – Restricted Land

In paragraph 3, omit '(although landholder consent will now be required within 200 metres of a residence)' and insert '(although landholder consent would be required within 200 metres as proposed by the associated Regulatory Impact Statement)'.

Notes on Provisions

Clause 5 Act binds all persons

Line 3, after ‘another State can’ insert ‘not’.

Clause 20 Unpaid royalties prevent transfer of resource authority

Line 3, after ‘authority’ insert ‘unless the circumstances in subsection (2) apply’.

Omit last sentence of the paragraph.

Clause 45 Right to elect to opt out

Omit dot point 3 and insert ‘if it is terminated by either party within 10 business days of a signed copy of the agreement being given to the owner or occupier of land; or’.

Clause 67 Definitions for pt 4

Page 73, second complete paragraph, line 2, after ‘requirements do not apply’ omit ‘to’.

Clause 80 General liability to compensate

In paragraph 1, line 4, after ‘the resource authority area’ insert ‘or access land to the resource authority area’.

Clause 81 Conduct and compensation agreement

In dot point 2, omit ‘may be’ and insert ‘are to be’.

Clause 84 No entry during minimum negotiation period

Omit paragraph 1 and insert ‘*Clause 84* provides that, despite the parties entering into an agreement before the end of the period, a resource authority holder can not enter the relevant land to carry out advanced activities until the minimum negotiation period ends.’

Clause 99 Review of compensation by Land Court

In paragraph 2, line 4, omit ‘and if the Court considers the agreement is not affected by the change’.

Clause 102 What is an overlapping area

In paragraph 2, after ‘Subsection (3) provides that an overlapping area includes an area that will become an overlapping’, insert ‘area’.

Clause 119 18 months notice

In paragraph 1 omit ‘at least 18 months from the date of the notice’ and insert ‘at least 18 months before the proposed mining commencement date’.

Clause 120 Confirmation notice

After ‘between 18 months and 2 years from the date of the’, insert ‘confirmation’.

Clause 122 RMA notice

After ‘Clause 122 requires that an RMA notice be given to a petroleum resource authority’ insert ‘holder’.

Clause 125 Acceleration notice may be given by ML (coal) holder

In paragraph 3, omit ‘Subsection (6)’ and insert ‘Subsection (4)’.

In paragraph 5, after ‘exploration in the IMA’ insert ‘or RMA’.

Clause 135 Right of first refusal

In paragraph 3, after ‘Subsection (3) allows the petroleum resource authority holder a period of 12 months after receiving a written notice’ insert ‘to’.

Clause 136 Definitions of div 5

In paragraph 3, omit ‘the ML (coal) holder under this part’ and insert ‘the ML (coal) holder under this division’.

Clause 139 Negotiation of agreed joint development plan

After ‘The obligation is on the PL applicant or holder to lodge an agreed joint development plan under this’, omit ‘part’ and insert ‘division’.

Clause 142 Authorised activities allowed only if consistent with agreed joint development plan lodged

After ‘by the PL holder under this’, omit ‘part’ and insert ‘division’.

Clause 150 Amendment of agreed joint development plan

After ‘In making the decision about the amendment,’ omit remainder of paragraph and insert ‘the Minister must consider: whether there is potential for each resource authority holder to maximise the benefits to all Queenslanders by the amendment; whether each resource authority holder has complied with the joint development plan; and the content of each resource authority holder’s development plan, to which the agreed joint development plan should be consistent’.

Clause 160 Duty of mitigation

Omit ‘for lost CSG production’.

Clause 162 Reconciliation payments and replacement gas

In paragraph 1, omit ‘the PL holder must repay the ML (coal) holder’ and insert ‘the PL holder is liable to give the ML (coal) holder’.

In paragraph 1, omit ‘replace the CSG taken as compensation’ and insert ‘an amount of CSG equal to that recovered’.

Clause 163 Dispute resolution

Omit paragraph 4 and insert ‘Subsection (4) provides that a ML (coal) holder may apply for arbitration if the ML (coal) holder and the PL holder cannot agree on any of the following in relation to reconciliation payments and replacement gas: the amount of reconciliation payment the ML (coal) holder is entitled to; when a reconciliation payment is to be made; the amount or quality of replacement gas the ML (coal) holder is entitled to; and how, when and where replacement gas must be given.’

Clause 167 Arbitrator’s functions

Omit paragraph 2, and replace with ‘Subsection (2) provides that in deciding the award the arbitrator must give consideration to optimising the development of the state’s coal and petroleum resources to maximise the benefit for all Queenslanders, and to the obligations of the resource authority holders under Queensland’s mining safety and health legislation.’

Clause 168 Expert appointed by arbitrator

In paragraph 1, after ‘another appropriately qualified person’ insert ‘(also an appointed expert)’.

Chapter 5 Applications and other documents

Part 1 Processing applications

Division 1 Preliminary

On page 102, paragraph 1, line 1, omit ‘all applications under the Act’ and insert ‘applications made to the Minister or chief executive under the Common Provisions Act.’

Clause 191 Practice Manual

In paragraph 2, omit ‘This clause also sets out when a person is taken to have given information for the purpose of the Act. This information is taken to be given if it is given in a way permitted under the manual or, if the information is a document, in the place or way for making applications, lodging documents or making submissions’, and replace with ‘This clause also sets out that a person is taken to have given information for the purpose of the Act, if it is given in a way that is required or permitted by the practice manual or a regulation.’

Clause 194 Chief executive may require particular information

Line 3, omit 'is intended to reduce the regulatory burden on industry by requesting a copy when this is required' and insert 'replaces the mandatory requirement to provide copies of these documents to the chief executive. This is intended to reduce the regulatory burden for industry, with copies only being required on request, for the department.'

Clause 195 References to right to enter

In line 1, after 'A right to enter a place under' omit 'this' and insert 'the Act'.

Clause 200 Transitional regulation-making power

In line 1, after 'Clause 200 provides that a regulation may' omit 'make a provision about', and insert 'provide for'.

Clause 219 Ch 4 definitions

Omit 'division' and insert 'part'.

Clause 231 Application of div 5

Omit 'and PL and ML (coal) overlap the' and insert 'and the PL and ML (coal)'.

Clause 317 Amendment of s 369A (Extinguishing GHG interests on the taking of land in a GHG authority's area (other than by an easement))

Line 2, omit 'applies to all resource authority types' and insert 'refers to the register under the Common Provisions Act'.

Clause 318 Amendment of s 370 (Joint holders of a GHG authority)

Line 2, omit 'section 370 of the *Greenhouse Gas Storage Act 2009* also applies to the Common Provisions Act' and insert 'the provision requires the chief executive to record the GHG authority in the register under the Common Provisions Act'.

Clause 358 Amendment of s 181 (Obligations and entitlement under mineral development licence)

Paragraph 2, omit.

Clause 375 Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)

Omit 'also refers to the Common Provisions Act' and insert 'refers to the register established under the Common Provisions Act'.

Clause 376 Amendment of s 314 (Property remaining on former mining lease may be sold)

Omit 'also refers to the Common Provisions Act' and insert 'refers to the register established under the Common Provisions Act'.

Clause 380 Amendment of sch 2 (Dictionary)

Omit 'relevant Resource Acts' and insert '*Mineral Resources Act 1989*'.

Clause 416 Replacement of s 245 (Application for grant of mining lease)

In paragraph 5, omit 'would result in the owner of restricted land losing their right of consent for the authority holder to access the restricted land post grant' and insert 'the applicant would be required to enter a compensation agreement under section 279(1) and (1A)'.

Omit paragraph 6 and insert 'Subsection 1(i) requires the applicant to identify the intended purpose for which the land identified in subsections (1)(h)(i) and (ii), is to be used for.'

In paragraph 8, line 2, after 'use of restricted land', omit.

Clause 418 Replacement of ss 252—252D

New section 252A Documents and other information to be given to affected persons

In paragraph 2, lines 1-2, omit 'The terms infrastructure provider and infrastructure are defined in the Bill. Infrastructure is defined to include', and insert 'The term infrastructure is defined in the Bill and includes'.

In paragraph 2, lines 5-6, omit 'Infrastructure providers for this section are defined as the owners of infrastructure who provide infrastructure that is wholly or partially on the land.'

New section 252B Declaration of compliance with obligations

Omit paragraphs 3 and 4 and insert 'If a second declaration is required prior to the grant of the mining lease the applicant must comply with the requirements of section 252A. If the declaration is not given under subsections (2) or (3), the Land Court may refuse to hear any matter about the application and is prevented from making a final recommendation about the mining lease application, other than to recommend it be rejected.'

Clause 419 Amendment of s 253 (Reissue of certificate of public notice)

In line 2, omit 'section 252 (reissue of mining lease notice) and insert 'Reissue of mining lease notice'.

Clause 429 Amendment of s 279 (Compensation to be settled before grant or renewal of mining lease)

On page 162, paragraph 4, line 2, after ‘resource activity is not possible.’ insert ‘In these cases the Minister may make a determination that the resource authority and the existing land uses cannot co-exist and that the mining lease be granted with exclusive surface rights.’

Clause 433 Omission of s 318AAC (Alternative way of marking out land proposed to be subject of mining lease (241))

After ‘which is redundant’ omit and insert ‘as the cross-referenced section has been omitted from the Act.’

Clause 435 Amendment of s 318AAE (Additional matters for application (252))

After ‘which is redundant’ omit entire paragraph and insert ‘as new section 386R of the *Mineral Resources Act 1989* as inserted by this Bill defines the required way for defining the boundary of a proposed mining lease.’

Clause 444 Insertion of new ss 827 to 832

Insertion of s 830 Certificates of public notice given before commencement

In line 2, omit ‘section 252’ and insert ‘section 252A’.

Clause 458 Insertion of new ss 833 and 834

New section 833 Act as in force on relevant day continues to apply for particular mining leases

In line 3, omit ‘18 September 2002 and the mining registrar’ and insert ‘18 September 2000 and the Minister’.

In line 7, omit ‘Commonwealth Native Title’ and insert ‘Commonwealth *Native Title Act 1993*’.

Clause 459 Omission of sch 1A (Native title provisions)

In lines 3-4, omit ‘and before 18 September 2000’ and insert ‘or before 18 September 2000’.

Clause 483 Amendment of s 77Z (Requirement for coordination arrangement to transfer lease in tenure area of mining lease)

Omit ‘*Mineral Resources Act 1989*’ and insert ‘*Petroleum Act 1923*’.

Clause 498 Amendment of s 113 (Other evidentiary aids)

After ‘so that the provision’, omit and insert ‘refers to the register established under the Common Provisions Act.’

Clause 499 Amendment of s 124A (Extinguishing 1923 Act petroleum interests on the taking of land in a 1923 Act petroleum tenure's area (other than by an easement))

After 'a resource authority area', omit and insert 'refers to the register established under the Common Provisions Act.'

Clause 524 Omission of ch 5, pts 10-10B

Omit 'chapter 6' and insert 'chapter 2'.

Clause 525 Amendment of s 823 (Who may appeal or apply for external review)

After 'is entitled to be given,' omit 'and information about the decision' and insert 'an information notice about the decision.'

Clause 526 Amendment of s 844 (Amending applications)

Paragraph 1, line 3, omit 'part 9' and insert 'part 1'.

Clause 528 Insertion of new ch 15, pt 17

New section 983 Continued appeal right for particular decisions

In line 3, omit 'chapter 2' and insert 'chapter 12'.

In line 4, omit 'section 517(2)' and insert 'section 517(1)'.

Clause 542 Amendment of s 426 (Public road authority's obligations in aligning pipeline on road)

After 'Common Provisions Act;' omit 'section 67' and insert 'section 59'.

Clause 552 Amendment of sch 2 (Definitions)

Paragraph 3, omit.

Clause 557 Amendment of s 30AA (Extinguishing petroleum interests on the taking of land in a petroleum authority's area (other than by an easement))

After 'so that the provision', omit and insert 'refers to the register established under the Common Provisions Act.'

Clause 558 Amendment of s 30A (Joint holders of a petroleum authority)

After 'so that', omit and insert 'the provision refers to the register established under the Common Provisions Act.'

Clause 561 Amendment of s 834 (Other evidentiary aids)

After ‘so that the provision’, omit and insert ‘refers to the register established under the Common Provisions Act.’

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