



Queensland

# Gasfields Commission Bill 2012





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# Gasfields Commission Bill 2012

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**2012**

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**A Bill**

for

**An Act to establish the Gasfields Commission**

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Short title</b>	3
This Act may be cited as the <i>Gasfields Commission Act 2012</i> .	4
<b>2 Purpose</b>	5
The purpose of this Act is to establish the Gasfields Commission to manage and improve the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland.	6 7 8 9
<b>3 Act binds all persons</b>	10
This Act binds all persons, including the State.	11
<b>4 Definitions</b>	12
The dictionary in schedule 1 defines particular words used in this Act.	13 14
<b>Part 2 Gasfields Commission</b>	15
<b>Division 1 Establishment, functions and powers of commission</b>	16 17
<b>5 Establishment of commission</b>	18
The Gasfields Commission is established.	19

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<b>6</b>	<b>Commission's functions</b>	1
	The commission has the following functions—	2
	(a) facilitating better relationships between landholders, regional communities and the onshore gas industry;	3 4
	(b) reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry;	5 6 7
	(c) advising Ministers and government entities about the ability of landholders, regional communities and the onshore gas industry to coexist within an identified area;	8 9 10
	(d) making recommendations to the relevant Minister that regulatory frameworks and legislation relating to the onshore gas industry be reviewed or amended;	11 12 13
	(e) making recommendations to the relevant Minister and onshore gas industry about leading practice or management relating to the onshore gas industry;	14 15 16
	(f) advising the Minister and government entities about matters relating to the onshore gas industry;	17 18
	(g) convening landholders, regional communities and the onshore gas industry for the purpose of resolving issues;	19 20
	(h) obtaining particular information from government entities and prescribed entities;	21 22
	(i) obtaining advice about the onshore gas industry or functions of the commission from government entities;	23 24
	(j) publishing educational materials and other information about the onshore gas industry;	25 26
	(k) partnering with other entities for the purpose of conducting research related to the onshore gas industry;	27 28
	(l) convening advisory bodies to assist the commission to perform a function mentioned in paragraphs (a) to (k).	29 30

[s 7]

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<b>7</b>	<b>Commission's powers</b>	1
(1)	The commission has the powers necessary or convenient to perform the commission's functions.	2 3
(2)	The commission also has the other powers given to the commission under this or another Act.	4 5
<b>Division 2</b>	<b>Membership</b>	6
<b>8</b>	<b>Membership of commission</b>	7
(1)	The commission consists of—	8
(a)	a full-time commissioner who is the chairperson; and	9
(b)	up to 6 part-time commissioners.	10
(2)	In deciding whom to recommend to the Governor in Council for appointment to the commission, the Minister must be satisfied—	11 12 13
(a)	each person nominated for appointment is qualified under section 9; and	14 15
(b)	the commissioners will include—	16
(i)	a commissioner who represents the interests of landholders; and	17 18
(ii)	a commissioner who represents the interests of communities in which the onshore gas industry operates; and	19 20 21
(iii)	a commissioner who represents the onshore gas industry.	22 23
(3)	The commissioners are to be appointed by the Governor in Council.	24 25

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<b>9</b>	<b>Eligibility for appointment as a commissioner</b>	1
	A person is qualified for appointment as a commissioner if the person has qualifications or experience in any of the following—	2 3 4
	• the onshore gas industry	5
	• a branch of science relating to the exploration or production of petroleum, or the impact of those activities on the environment	6 7 8
	• legal practice relevant to the exploration or production of petroleum	9 10
	• negotiations between landholders and the onshore gas industry	11 12
	• land management	13
	• land valuation	14
	• community development	15
	• the financial and business sector.	16
<b>10</b>	<b>Term of appointment</b>	17
	(1) A commissioner is appointed for the term, not longer than 3 years, stated in the commissioner’s instrument of appointment.	18 19 20
	(2) A commissioner may be reappointed.	21
<b>11</b>	<b>Conditions of appointment</b>	22
	(1) A commissioner is to be paid the remuneration and allowances decided by the Governor in Council.	23 24
	(2) A commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.	25 26 27
	(3) The commissioners are appointed under this Act and not the <i>Public Service Act 2008</i> .	28 29

[s 12]

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<b>12</b>	<b>Resignation</b>	1
	A commissioner may resign by signed notice given to the Minister.	2 3
<b>13</b>	<b>Termination of appointment</b>	4
	The Governor in Council may at any time remove a commissioner from office for any reason or none.	5 6
<b>14</b>	<b>Leave of absence</b>	7
(1)	The Minister may grant leave to the chairperson in accordance with entitlements available to the chairperson under the chairperson's conditions of office.	8 9 10
(2)	The chairperson may grant leave to a part-time commissioner in accordance with entitlements available to the part-time commissioner under the part-time commissioner's conditions of office.	11 12 13 14
<b>15</b>	<b>Acting chairperson</b>	15
(1)	The Minister may appoint a person qualified for appointment as the chairperson to act as the chairperson—	16 17
(a)	during a vacancy in the office; or	18
(b)	during any period, or all periods, when the chairperson is absent from duty or from the State or, for another reason, can not perform the duties of the office.	19 20 21
(2)	The chairperson may appoint a part-time commissioner to act as the chairperson during a period, of not more than 14 days, when the chairperson is absent from duty or from the State or, for another reason, can not perform the duties of the office.	22 23 24 25
<b>16</b>	<b>Preservation of rights</b>	26
(1)	This section applies if—	27
(a)	a person is appointed as a commissioner; and	28

- 
- (b) the person resigns the person's role as a public service officer in order to accept the appointment. 1  
2
- (2) The person retains and is entitled to all rights that have accrued to the person because of the person's employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the commissioner were a continuation of service as a public service officer. 3  
4  
5  
6  
7  
8
- (3) At the end of the person's term of office or on resignation— 9
- (a) the person is entitled to be appointed to an office in the public service at a salary level not less than the current salary level of an office equivalent to the office the person held before being appointed as the commissioner; and 10  
11  
12  
13  
14
- (b) the person's service as the commissioner is to be regarded as service of a like nature in the public service for deciding the person's rights as a public service officer. 15  
16  
17  
18

**Division 3**                      **Disclosure of interests by** 19  
   **commissioners** 20

**17**            **Disclosure of interests** 21

- (1) This section applies if— 22
- (a) a commissioner or a close relative of a commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the commission; and 23  
24  
25  
26
- (b) the interest could conflict with the proper performance of the commissioner's functions for the matter. 27  
28
- (2) The commissioner must, as soon as practicable, disclose the interest to— 29  
30
- (a) for the chairperson—all the other commissioners; or 31

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(b)	for a part-time commissioner—the chairperson.	1
	Maximum penalty—100 penalty units.	2
(3)	If a commissioner has disclosed an interest relating to a matter, the commissioner must not participate in the commission’s consideration of the matter.	3 4 5
	Maximum penalty—100 penalty units.	6
<b>Division 4</b>	<b>Commission board meetings</b>	7
<b>18</b>	<b>Commission board meetings</b>	8
	The chairperson must convene a meeting of commissioners (a <i>commission board meeting</i> ) at least 6 times each year.	9 10
<b>19</b>	<b>Purposes of commission board meetings</b>	11
	The purposes of commission board meetings are to—	12
(a)	ensure the commission performs its functions and exercises its powers in an appropriate, effective and efficient way; and	13 14 15
(b)	set the strategic priorities of the commission; and	16
(c)	develop plans to address key issues being considered by the commission.	17 18
<b>20</b>	<b>Conduct of commission board meetings</b>	19
(1)	Commission board meetings are to be held at the times and places the chairperson decides.	20 21
(2)	The chairperson must preside at all commission board meetings at which the chairperson is present.	22 23
(3)	If the chairperson is absent from a commission board meeting, another commissioner chosen by the commissioners present must preside.	24 25 26

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(4)	A quorum for a commission board meeting is the chairperson and 3 part-time commissioners.	1 2
(5)	Subject to this Act, the commission may otherwise conduct commission board meetings in the way it considers appropriate.	3 4 5
<b>Part 3</b>	<b>Particular powers of the commission</b>	6 7
<b>Division 1</b>	<b>Powers relating to government entities</b>	8 9
<b>21</b>	<b>Power to require particular information from government entities</b>	10 11
(1)	The chairperson may give a government entity a written notice requesting information in the entity's possession or control that relates to—	12 13 14
(a)	the onshore gas industry; and	15
(b)	a function of the commission.	16
(2)	The notice must state how, and a reasonable period of at least 10 business days by which, the information must be given.	17 18
(3)	The government entity must comply with a request made of it under subsection (1) unless—	19 20
(a)	the information is not in its possession or control; or	21
(b)	complying with the request would place the entity in contravention of a law; or	22 23
(c)	the request relates to someone else's confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent.	24 25 26 27

[s 22]

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- (4) If subsection (3) applies in relation to a request made of a government entity under subsection (1), the entity must inform the commissioner in writing that subsection (3) applies in relation to the requirement. 1  
2  
3  
4

**22 Power to require advice** 5

- (1) The chairperson may, by written notice, require the chief executive of a government entity to provide advice to the chairperson if the advice— 6  
7  
8
- (a) relates to a function of the commission; and 9
- (b) relates to a function of the government entity; and 10
- (c) is something about which the chief executive could reasonably be able to provide advice. 11  
12
- (2) The chief executive must, within a reasonable time, comply with a request made of him or her under subsection (1) unless— 13  
14  
15
- (a) complying with the requirement would place the chief executive or entity in contravention of a law; or 16  
17
- (b) the requirement relates to someone else’s confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity’s reasonable efforts to obtain the consent. 18  
19  
20  
21

**23 Compulsory consultation** 22

- (1) A government entity that is developing policy or legislation intended to affect the onshore gas industry must consult with the commission about the proposed policy or legislation during the development. 23  
24  
25  
26
- (2) However, while it is Parliament’s intention that subsection (1) be complied with, subsection (1) is directory only and does not create rights or impose legally enforceable obligations on the State, a government entity or anyone else. 27  
28  
29  
30
- (3) Failure to comply with subsection (1) does not affect the validity of any decision. 31  
32

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<b>Division 2</b>	<b>Powers relating to landholders, onshore gas operators and other entities</b>	1 2 3
<b>24</b>	<b>Power to require particular information from prescribed entities</b>	4 5
(1)	The chairperson may, by written notice, require a prescribed entity to give the chairperson—	6 7
(a)	stated documents or information (the <i>relevant material</i> ), or stated types of documents or information (also the <i>relevant material</i> ), in its possession or control that the commission reasonably requires for the effective and efficient carrying out of the commission’s functions; or	8 9 10 11 12
(b)	access to the relevant material.	13
(2)	The notice must state how, and a reasonable period by which, the relevant material, or access to the relevant material, must be given.	14 15 16
(3)	An entity given a notice under subsection (1) must comply with the notice unless—	17 18
(a)	the requirement relates to relevant material that is in someone else’s possession or control and the other person has refused to give the relevant material to the entity despite the entity’s reasonable efforts to obtain it; or	19 20 21 22 23
(b)	complying with the requirement would place the entity in contravention of a law; or	24 25
(c)	the requirement relates to someone else’s confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity’s reasonable efforts to obtain the consent; or	26 27 28 29
(d)	the giving of the relevant material might tend to incriminate the entity; or	30 31

[s 25]

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(e)	the relevant material is confidential to the entity or the giving of the relevant material might be to the detriment of the entity's commercial or other interests.	1 2 3
	Maximum penalty—100 penalty units.	4
<b>Division 3</b>	<b>Other</b>	5
<b>25</b>	<b>Publishing information</b>	6
(1)	The commission may publish any information relevant to the purpose or a function of the commission.	7 8
(2)	However, the commission must not publish any confidential information under subsection (1).	9 10
<b>26</b>	<b>Advisory bodies</b>	11
	The chairperson may establish the advisory bodies he or she considers appropriate to give the chairperson or commission—	12 13 14
(a)	additional or technical advice about a matter relevant to a function of the commission; or	15 16
(b)	feedback about advice the commission proposes to give the Minister or government entities.	17 18
<b>27</b>	<b>Gasfields community leaders council</b>	19
(1)	The commission must establish a committee (the <i>gasfields community leaders council</i> ) for the purpose of assisting the commission to identify issues affecting the coexistence of landholders, regional communities and the onshore gas industry in Queensland.	20 21 22 23 24
(2)	The gasfields community leaders council is to consist of the chairperson and other individuals that the chairperson is satisfied represent local governments, regional communities and the onshore gas industry.	25 26 27 28

- 
- (3) The chairperson is to preside at meetings of the gasfields  
community leaders council. 1  
2

## **Part 4 Administration 3**

### **28 General manager 4**

- (1) The commission must employ a general manager. 5
- (2) The general manager is employed under this Act and not  
under the *Public Service Act 2008*. 6  
7
- (3) The commission may at any time remove the general manager  
from office for any reason or none. 8  
9
- (4) Section 16 applies as if a reference to appointment as a  
commissioner were a reference to employment as the general  
manager. 10  
11  
12
- (5) The general manager is responsible for— 13
- (a) the financial administration of the commission; and 14
- (b) directing the other staff of the commission. 15
- (6) However— 16
- (a) the general manager may authorise spending by the  
commission during a financial year only under the  
budget for that year, unless the Minister otherwise  
approves; and 17  
18  
19  
20
- (b) the chairperson may direct the general manager about  
helping the commissioners perform the commission's  
functions. 21  
22  
23
- (7) Subsection (5) does not prevent the attachment of the  
commission to a department to ensure the commission is  
supplied with the administrative support services it requires to  
perform its functions effectively and efficiently. 24  
25  
26  
27

[s 29]

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- (8) The chairperson may appoint a person, other than a commissioner, to act in the office of general manager during—
- (a) any vacancy, or all vacancies, in the office; or
  - (b) any period, or all periods, when the general manager is absent from duty, or can not, for another reason, perform the functions of the office.
- 29 Commission staff**
- (1) The commission may employ other staff it considers appropriate to perform its functions.
- (2) The other staff are to be employed under the *Public Service Act 2008*.
- 30 Alternative staffing arrangements**
- (1) The general manager may arrange with the chief executive of a department, a local government, a government entity or a government owned corporation, for the services of officers or employees of the department, local government, entity or corporation to be made available to the commission.
- (2) An officer or employee whose services are made available under subsection (1)—
- (a) continues to be an officer or employee of the department, local government, entity or corporation; and
  - (b) continues to be employed or otherwise engaged by the department, local government, entity or corporation on the same terms and conditions applying to the officer or employee before his or her services were made available; and
  - (c) is, for the period the services are made available and for the carrying out of the authority’s functions, taken to be a member of the staff of the commission.

- 
- 31 Commission not subject to outside direction** 1
- Commissioners, the general manager and staff of the 2  
commission are not subject to direction in the performance of 3  
their duties by any person, other than from within the 4  
commission. 5
- 32 Annual budgets** 6
- (1) The general manager must, before each 31 March— 7
- (a) prepare a budget— 8
- (i) of estimated costs of the commission for the next 9  
financial year; and 10
- (ii) consistent with the strategic priorities of the 11  
commission; and 12
- (b) present the budget to the commissioners for approval to 13  
give the budget to the Minister; and 14
- (c) give the approved budget to the Minister. 15
- (2) The Minister must approve, or refuse to approve, a budget by 16  
each 30 April. 17
- (3) However, a failure by the Minister to act under subsection (2) 18  
does not prevent the Minister approving, or refusing to 19  
approve, a budget at later time. 20
- (4) A budget has no effect until it has been approved by the 21  
Minister. 22
- (5) During a financial year the general manager may prepare 23  
amendments to the budget for that year. 24
- (6) An amendment of a budget has no effect until it has been 25  
approved by— 26
- (a) for a minor amendment—the chairperson in 27  
consultation with the part-time commissioners; or 28
- (b) otherwise—the Minister on the recommendation of the 29  
chairperson in consultation with the part-time 30  
commissioners. 31

[s 33]

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- (7) If the chairperson and the part-time commissioners differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval. 1  
2  
3  
4
- (8) In this section— 5  
*minor amendment*, of an annual budget, means an 6  
amendment of a minor nature that does not change the total of 7  
the estimated costs mentioned in the budget. 8

**33 Annual report** 9

- (1) The general manager must prepare and give to the Minister a written report about the operations of the commission during each financial year. 10  
11  
12
- (2) Before the report is given to the Minister the commissioners must approve the report. 13  
14
- (3) The report must be given to the Minister as soon as practicable after the end of the financial year, but within a period that will allow the report to be tabled in the Legislative Assembly within 3 months after the end of the financial year to which the report relates. 15  
16  
17  
18  
19
- (4) Without limiting subsection (1), the general manager must include in the report— 20  
21
- (a) details of the functions performed by the commission during the year; and 22  
23
- (b) financial statements for the commission for the year; and 24  
25
- (c) a description of the prosecutions, if any, undertaken by the commission during the year; and 26  
27
- (d) information about how efficiently and effectively the commission has carried out its operations, including identifying key achievements and financial and non-financial performance. 28  
29  
30  
31
- (5) A description may include statistics. 32

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(6)	The report must not be prepared in a way that discloses confidential information.	1 2
<b>34</b>	<b>Delegation</b>	3
(1)	The chairperson may delegate any of the chairperson's functions to a part-time commissioner.	4 5
(2)	In this section— <i>functions</i> includes powers.	6 7
<b>Part 5</b>	<b>General offences and legal proceedings</b>	8 9
<b>Division 1</b>	<b>General offences</b>	10
<b>35</b>	<b>False or misleading statements</b>	11
(1)	This section applies to a person who, in compliance with this Act, must provide information to the chairperson.	12 13
(2)	The person must not state anything to the chairperson that the person knows is false or misleading in a material particular. Maximum penalty—100 penalty units.	14 15 16
<b>36</b>	<b>False or misleading documents</b>	17
(1)	This section applies to a person who, in compliance with this Act, must provide information to the chairperson.	18 19
(2)	The person must not give the chairperson a document containing information that the person knows is false or misleading in a material particular. Maximum penalty—100 penalty units.	20 21 22 23

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- (3) Subsection (2) does not apply to a person if the person, when giving the document—
    - (a) tells the chairperson, to the best of the person’s ability, how it is false or misleading; and
    - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- 37 Use of confidential information**
- (1) This section applies to a person who—
    - (a) is, or has been, a commissioner, general manager or staff member of the commission; and
    - (b) obtains confidential information in administering or performing a function under this Act.
  - (2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—
    - (a) in the performance of functions under this Act; or
    - (b) with the consent of the person to whom the information relates; or
    - (c) otherwise required or permitted by law.
- Maximum penalty—50 penalty units.

**Division 2 Evidentiary provisions**

- 38 Summary offences**
- An offence against this Act is a summary offence.

- 39 Appointments and authority**
- In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—
- (a) the appointment under this Act of a commissioner;

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	(b) the authority of a commissioner, the general manager or staff of the commission to do anything under this Act.	1 2
<b>40</b>	<b>Signatures</b>	3
	A signature purporting to be the signature of a commissioner or the general manager is evidence of the signature it purports to be.	4 5 6
<b>41</b>	<b>Other evidentiary aids</b>	7
	(1) In a proceeding, a certificate purporting to be that of the chairperson stating any of the following matters is evidence of the matter—	8 9 10
	(a) a stated document is an appointment or notice made or given under this Act;	12
	(b) a stated document is a document given to the commission under this Act;	13
	(c) a stated document is a copy of a document mentioned in paragraph (a) or (b);	16
	(d) on a stated day, a stated requirement was made of a person.	17 18
	(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.	19 20 21 22
<b>42</b>	<b>Protection from liability</b>	23
	(1) A commissioner, the general manager or other staff of the commission do not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.	24 25 26 27
	(2) If subsection (1) prevents a civil liability attaching to the commissioner, general manager or staff, the liability attaches instead to the State.	28 29 30

[s 43]

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<b>43</b>	<b>Commission is a statutory body</b>	1
(1)	The commission is a statutory body under—	2
(a)	the <i>Financial Accountability Act 2009</i> ; and	3
(b)	the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	4
(2)	The <i>Statutory Bodies Financial Arrangements Act 1982</i> , part 2B sets out the way in which the commission’s powers under this Act are affected by that Act.	5 6 7
<b>Part 6</b>	<b>Other matters</b>	8
<b>44</b>	<b>Regulation-making power</b>	9
	The Governor in Council may make regulations under this Act.	10 11

<b>Schedule 1</b>	<b>Dictionary</b>	1
	section 4	2
	<i>chairperson</i> means the person appointed as chairperson under section 8.	3 4
	<i>commission</i> means the Gasfields Commission established under section 5.	5 6
	<i>commission board meeting</i> see section 19.	7
	<i>commissioner</i> means a person appointed under section 8 as either the chairperson or a part-time commissioner.	8 9
	<i>confidential information</i> —	10
	(a) means any information that—	11
	(i) could identify an individual; or	12
	(ii) is about a person’s current financial position or financial background; or	13 14
	(iii) would be likely to damage the commercial activities of a person to whom the information relates; but	15 16 17
	(b) does not include—	18
	(i) information that is publicly available; or	19
	(ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.	20 21 22
	<i>general manager</i> means the person appointed as general manager under section 29.	23 24
	<i>government entity</i> see the <i>Public Service Act 2008</i> , section 24.	25 26
	<i>landholder</i> means an entity that holds either a freehold or leasehold interest in land within Queensland.	27 28
	<i>onshore gas industry</i> means the businesses that—	29

Schedule 1

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- (a) carry out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carry out the transportation of petroleum, within Queensland, using a pipeline with the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.
- onshore gas operator*** means an entity that—
- (a) carries out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carries out the transportation of petroleum, within Queensland, using a pipeline with the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.
- petroleum*** see the *Petroleum and Gas (Production and Safety) Act 2004*, section 10.
- prescribed entity*** means—
- (a) a landholder; or
- (b) an onshore gas operator; or
- (c) a company engaged under a written agreement to carry out work, on behalf of an onshore gas operator, that relates to the exploration or production of petroleum.