



Queensland

Revenue Legislation Amendment Bill 2014



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2014

A Bill

for

An Act to amend the Duties Act 2001, the Land Tax Act 2010, the Mineral Resources Act 1989, the Payroll Tax Act 1971, the Petroleum and Gas (Production and Safety) Act 2004, the State Penalties Enforcement Act 1999 and the Taxation Administration Act 2001 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Revenue Legislation Amendment Act 2014*. 4
5

Clause 2 Commencement 6

(1) Part 3 commences on 30 June 2014. 7

(2) The following provisions commence on 1 July 2014— 8

(a) part 4, division 3; 9

(b) part 5; 10

(c) part 6, division 3. 11

Part 2 Amendment of Duties Act 2001 12

Clause 3 Act amended 13

This part amends the *Duties Act 2001*. 14

Clause 4 Amendment of s 98 (Conditions for transfer or agreement for transfer of business property) 15
16

(1) Section 98(1)(a)— 17

omit, insert— 18

(a) the transferor or person directing the transfer is— 19
20

-
- (i) if the business property is used to carry on a business of primary production—a defined relative of the transferee; or
 - (ii) otherwise—an ancestor of the transferee;
 - (2) Section 98(1)(c), after ‘by the’—
insert—
defined relative or
 - (3) Section 98(2)(a)—
omit, insert—
 - (a) the beneficiary of the trust is a minor, and—
 - (i) if the business property is used to carry on a business of primary production—the minor is a defined relative of the person creating the trust; or
 - (ii) otherwise—the minor is a descendant of the person creating the trust; and

Clause 5 Amendment of s 99 (Conditions for partnership acquisitions)

- (1) Section 99(1)(b)—
omit, insert—
 - (b) the transferor or person directing the acquisition is—
 - (i) if the business property is used to carry on a business of primary production—a defined relative of the acquirer; or
 - (ii) otherwise—an ancestor of the acquirer;
- (2) Section 99(1)(d), after ‘by the’—
insert—

[s 6]

	defined relative or	1
(3)	Section 99(2)(a)—	2
	<i>omit, insert—</i>	3
	(a) the beneficiary of the trust is a minor, and—	4
	(i) if the business property is used to carry	5
	on a business of primary	6
	production—the minor is a defined	7
	relative of the person creating the trust;	8
	or	9
	(ii) otherwise—the minor is a descendant	10
	of the person creating the trust; and	11
Clause 6	Amendment of s 100 (Conditions for particular trust	12
	acquisitions)	13
(1)	Section 100(1)(b)—	14
	<i>omit, insert—</i>	15
	(b) the person disposing of the interest or	16
	directing the acquisition is—	17
	(i) if the business property is used to carry	18
	on a business of primary production—a	19
	defined relative of the acquirer; or	20
	(ii) otherwise—an ancestor of the acquirer;	21
(2)	Section 100(1)(d), after ‘by the’—	22
	<i>insert—</i>	23
	defined relative or	24
(3)	Section 100(2)(a)—	25
	<i>omit, insert—</i>	26
	(a) the beneficiary of the trust is a minor, and—	27
	(i) if the business property is used to carry	28
	on a business of primary	29
	production—the minor is a defined	30

	relative of the person creating the trust;	1
	or	2
	(ii) otherwise—the minor is a descendant of the person creating the trust; and	3 4
Clause 7	Amendment of s 101 (Conditions for creation of trusts and particular trust acquisitions)	5 6
	Section 101(b)—	7
	<i>omit, insert—</i>	8
	(b) the beneficiary of the trust is a minor, and—	9
	(i) if the business property is used to carry on the business of primary production—the minor is a defined relative of the person creating the trust; or	10 11 12 13 14
	(ii) otherwise—the minor is a descendant of the person creating the trust;	15 16
Clause 8	Amendment of s 102 (Conditions for acquisitions of interest in family unit trusts)	17 18
	(1) Section 102(1)(b)—	19
	<i>omit, insert—</i>	20
	(b) the person disposing of the interest or directing the acquisition is—	21 22
	(i) if the business property is used to carry on a business of primary production—a defined relative of the acquirer; or	23 24 25
	(ii) otherwise—an ancestor of the acquirer;	26
	(2) Section 102(1)(d), after ‘by the’—	27
	<i>insert—</i>	28
	defined relative or	29
	(3) Section 102(2)(a)—	30

[s 9]

- omit, insert—* 1
- (a) the beneficiary of the trust is a minor, and— 2
- (i) if the business property is used to carry 3
on a business of primary 4
production—the minor is a defined 5
relative of the person creating the trust; 6
or 7
- (ii) otherwise—the minor is a descendant 8
of the person creating the trust; and 9

**Clause 9 Amendment of s 123 (Exemption—particular distribution 10
of dutiable property to a beneficiary) 11**

Section 123(4)(b)— 12

omit, insert— 13

- (b) any of the following apply— 14
- (i) if the property of the trust is business 15
property used to carry on a business of 16
primary production—the beneficiary is 17
not a defined relative of the person who 18
created the trust; 19
- (ii) if the property of the trust is business 20
property used to carry on a prescribed 21
business—the beneficiary is not a 22
descendant of the person who created 23
the trust; 24
- (iii) the property of the trust is not, at the 25
time of the distribution, business 26
property or the business is not intended 27
to be carried on by the beneficiary, 28
whether alone or with others. 29

**Clause 10 Replacement of s 133 (Exemption—building units and 30
group titles plans and community titles schemes) 31**

Section 133— 32

omit, insert—

133 Exemption—community titles schemes

- (1) Subject to subsection (2), transfer duty is not imposed on a transfer, or agreement for the transfer, of a lot that, under the *Body Corporate and Community Management Act 1997*, is a lot included in a community titles scheme if—
- (a) the transferor is a corporation (the *transferor corporation*); and
 - (b) under that Act, the transferor corporation is the original owner for the scheme; and
 - (c) the transferee held shares in the transferor corporation that were surrendered to obtain the transfer of the lot from the transferor corporation; and
 - (d) the separate area that the lot comprises corresponds with the separate area the transferee had a right to occupy immediately before surrendering the transferee’s shares; and
 - (e) the separate area that the lot comprises has been used for residential purposes immediately before the transferee surrendered the transferee’s shares and will, after registration of the plan and the transfer of the lot to the transferee, be used for residential purposes.
- (2) Subsection (1) applies to the transfer or agreement for the transfer of a lot by a transferor corporation on or after the commencement day only if—
- (a) before the commencement day—
 - (i) shares were issued by the transferor corporation; and

[s 11]

	(ii) the corporation's constitution provided,	1
	and on and from the commencement	2
	day continues to provide, that a person	3
	who holds the shares has the right to	4
	occupy the separate area mentioned in	5
	subsection (1)(d); or	6
	(b) before the commencement day, the	7
	transferee entered into an agreement with	8
	the transferor corporation under which—	9
	(i) the transferee is entitled to purchase the	10
	shares mentioned in subsection (1)(c)	11
	from the transferor corporation; and	12
	(ii) because of the purchase of the shares,	13
	the transferee has the right to occupy	14
	the separate area mentioned in	15
	subsection (1)(d).	16
	(3) In this section—	17
	<i>commencement day</i> means the day this section	18
	commences.	19
Clause 11	Amendment of s 173 (Value of land-holdings and	20
	property—business property disregarded)	21
	(1) Section 173(3)(c)—	22
	<i>omit, insert—</i>	23
	(c) the transferor or person directing the	24
	transfer is—	25
	(i) if the business property is used to carry	26
	on a business of primary production—a	27
	defined relative of the transferee; or	28
	(ii) otherwise—an ancestor of the	29
	transferee;	30
	(2) Section 173(3)(e), after 'by the'—	31
	<i>insert—</i>	32

	defined relative or	1	
(3)	Section 173(4)(a)—	2	
	<i>omit, insert—</i>	3	
	(a) the beneficiary of the trust is a minor, and—	4	
	(i) if the business property is used to carry	5	
	on a business of primary	6	
	production—the minor is a defined	7	
	relative of the person creating the trust;	8	
	or	9	
	(ii) otherwise—the minor is a descendant	10	
	of the person creating the trust; and	11	
Clause 12	Insertion of new ch 17, pt 19	12	
	Chapter 17—	13	
	<i>insert—</i>	14	
	Part 19	Transitional provisions	15
		for Revenue Legislation	16
		Amendment Act 2014	17
	653 Application of amended ch 2, pt 10 and related provisions	18	
	(1) The relevant provisions, as in force on the commencement, apply to dutiable transactions only if liability for transfer duty arises on or after the commencement.	19	
	(2) In this section—	20	
	<i>commencement</i> means the day this section commences.	21	
	<i>relevant provisions</i> means the following provisions—	22	
	• chapter 2, part 10	23	
		24	
		25	
		26	
		27	
		28	
		29	

[s 13]

•	sections 123 and 173	1
•	schedule 6, definitions <i>defined relative</i> ,	2
	<i>family partnership</i> , <i>family trust</i> and <i>family</i>	3
	<i>unit trust</i>	4
	654 Application of existing s 123 concession	5
(1)	This section applies to a dutiable transaction to	6
	which section 123 applies if, before the day this	7
	section commences, a concession for transfer	8
	duty has been provided under chapter 2, part 10	9
	for the dutiable property the subject of the	10
	distribution.	11
(2)	Section 123, as in force immediately before the	12
	day this section commences, continues to apply	13
	in relation to the dutiable transaction.	14
Clause 13	Amendment of sch 6 (Dictionary)	15
(1)	Schedule 6—	16
	<i>insert—</i>	17
	<i>defined relative</i> , of a person, means each of the	18
	following—	19
(a)	the person’s spouse;	20
(b)	a parent of the person or the person’s	21
	spouse;	22
(c)	a grandparent of the person or the person’s	23
	spouse;	24
(d)	a brother, sister, nephew or niece of the	25
	person or the person’s spouse;	26
(e)	a child or grandchild of the person or the	27
	person’s spouse;	28
(f)	an aunt or uncle of the person or the	29
	person’s spouse;	30

-
- (c) the spouse of anyone mentioned in paragraphs (b) to (f). 1
2
- (2) Schedule 6, definition *family partnership*— 3
omit, insert— 4
- family partnership***, for a person, means a 5
partnership of which— 6
- (a) if the partnership carries on a business of 7
primary production—the total partnership 8
interests of the partners who are defined 9
relatives of the person is at least 50%; or 10
- (b) otherwise—the total partnership interests of 11
the partners who are members of the 12
person’s family is at least 50%. 13
- (3) Schedule 6, definition *family trust*— 14
omit, insert— 15
- family trust***, for a person, means a trust— 16
- (a) the trustee of which started to hold the 17
property on trust at the direction of— 18
- (i) if the trust property is used to carry on 19
a business of primary production—a 20
defined relative of the person; or 21
- (ii) otherwise—an ancestor of the person; 22
and 23
- (b) the beneficiaries of which— 24
- (i) for a trust mentioned in paragraph 25
(a)(i)—are defined relatives of the 26
person; or 27
- (ii) otherwise—are members of the 28
person’s family. 29
- (4) Schedule 6, definition *family unit trust*— 30
omit, insert— 31
-

-
- exempt land under section 41 or 42; 1
and 2
- (ii) of which, on the liability date for the 3
financial year (the *previous financial* 4
year) occurring immediately before the 5
current financial year, the person was 6
not the owner; and 7
- (b) the person is also the owner of land (the *old* 8
home)— 9
- (i) of which the person has continuously 10
been the owner since the liability date 11
for the previous financial year; and 12
- (ii) that, on the liability date for the 13
previous financial year, was exempt or 14
partially exempt land for the person as 15
owner of the land under section 41 or 16
42; and 17
- (iii) of which, on the liability date for the 18
financial year immediately following 19
the current financial year, the person is 20
no longer the owner. 21
- (2) Subject to subsection (3), the person's old home 22
is exempt land for the current financial year, to 23
the extent that the old home was exempt or 24
partially exempt land under section 41 or 42 on 25
the liability date for the previous financial year. 26
- (3) The old home is not exempt under subsection (2) 27
if the person receives rents or profits from— 28
- (a) the current home before it is used as the 29
home of the person, other than to the extent 30
provided for under subsection (4); or 31
- (b) the old home after it is used as the home of 32
the person. 33
- (4) For subsection (3)(a), the person may receive 34
rents or profits from the current home if— 35
-

[s 15]

- (a) the current home was acquired by the person subject to a lease under which a person (the *lessee*) had a right to occupy the land; and
 - (b) the lessee gave vacant possession of the current home to the person on the earlier of—
 - (i) the end of the term of the lease; or
 - (ii) within 6 months after the day the person acquired the current home.
- (5) In this section—
liability date, for a financial year, means the time when liability for land tax for the financial year arises under section 7.

42B Exemption for new home before transitioning from current home

- (1) This section applies in relation to the imposition of land tax on taxable land for a financial year (the *current financial year*) if—
- (a) a person is the owner of land (the *current home*)—
 - (i) that, on the liability date for the current financial year, is exempt or partially exempt land under section 41 or 42, other than because the land is taken to be used as a home under section 38; and
 - (ii) of which, on the liability date for the financial year (the *next financial year*) occurring immediately after the current financial year, the person is no longer the owner; and
 - (b) the person is also the owner of land (the *new home*)—

-
- (i) of which, on the liability date for the financial year occurring immediately before the current financial year, the person was not the owner; and
- (ii) that, on the liability date for the next financial year, is exempt or partially exempt land under section 41 or 42 for the person; and
- (iii) of which, on the liability date for the next financial year, the person is still the owner.
- (2) Subject to subsection (3), the person's new home is exempt land for the current financial year, to the extent that the person's current home is exempt or partially exempt land under section 41 or 42 on the liability date for the current financial year.
- (3) The new home is not exempt under subsection (2) if the person receives rents or profits from—
- (a) the current home after it is used as the home of the person; or
- (b) the new home before it is used as the home of the person, other than to the extent provided for under subsection (4).
- (4) For subsection (3)(b), the person may receive rents or profits from the new home if—
- (a) the new home was acquired by the person subject to a lease under which a person (the *lessee*) has a right to occupy the land; and
- (b) the lessee gives vacant possession of the new home to the person on the earlier of—
- (i) the end of the term of the lease; or
- (ii) within 6 months after the day the person acquired the new home.

[s 16]

- (5) In this section— 1
liability date, for a financial year, means the time 2
when liability for land tax for the financial year 3
arises under section 7. 4

Clause 16 Insertion of new s 44A 5

After section 44— 6

insert— 7

**44A Reassessment—transitioning to or from 8
current home** 9

- (1) This section applies if a person’s liability for land 10
tax is assessed on the basis that the person is, 11
under section 42A, the owner of an old home that 12
is exempt land for a financial year (the *relevant* 13
year), but— 14
- (a) on the liability date mentioned in section 15
42A(1)(b)(iii), the person is still the owner 16
of the old home; or 17
 - (b) the old home is not exempt under section 18
42A(2) because the person has received 19
rents or profits in the way mentioned in 20
section 42A(3). 21
- (2) This section also applies if a person’s liability for 22
land tax is assessed on the basis that the person 23
is, under section 42B, the owner of a new home 24
that is exempt land for a financial year (also the 25
relevant year), but— 26
- (a) on the liability date mentioned in section 27
42B(1)(a)(ii), the person is still the owner of 28
the current home mentioned in that section; 29
or 30
 - (b) on the liability date mentioned in section 31
42B(1)(b)(ii), the new home is not exempt 32
or partially exempt land under section 41 or 33
42 for the person; or 34

	(c) on the liability date mentioned in section 42B(1)(b)(iii), the person is not the owner of the new home; or	1 2 3
	(d) the new home is not exempt under section 42B(2) because the person has received rents or profits in the way mentioned in section 42B(3).	4 5 6 7
(3)	Each matter mentioned in subsection (1)(a) and (b) and (2)(a) to (d) is a <i>relevant matter</i> .	8 9
(4)	The person must give notice to the commissioner stating the details of the relevant matter.	10 11
	<i>Note—</i>	12
	Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.	13 14 15
(5)	The notice mentioned in subsection (4) must be given within 28 days after the day the relevant matter happens, or the circumstances comprising the relevant matter arise.	16 17 18 19
(6)	The commissioner must make a reassessment of the person's liability for land tax for the relevant year on the basis that the land was not exempt land.	20 21 22 23
Part 4	Amendment of Mineral Resources Act 1989	24 25
Division 1	Preliminary	26
Clause 17	Act amended	27
	This part amends the <i>Mineral Resources Act 1989</i> .	28

[s 18]

Division 2	Amendments commencing on assent	1 2
Clause 18	Replacement of s 326 (Maintenance of records)	3
	Section 326—	4
	<i>omit, insert—</i>	5
	326 Requirement to keep proper records	6
	(1) A person who is the holder of a mining claim or mining lease or who otherwise mines mineral from land must keep the records necessary to enable the royalty payable by the person to be ascertained.	7 8 9 10 11
	Maximum penalty—100 penalty units.	12
	(2) For subsection (1), the Minister may, by written notice given to a person, require the person to keep a particular record stated in the notice.	13 14 15
	(3) The person must not fail, without reasonable excuse, to comply with the notice.	16 17
	Maximum penalty—100 penalty units.	18
	326A Accessibility of records	19
	A person who is required under this part to keep a record must keep the record in a way that it is able to be readily produced to the Minister if required by the Minister.	20 21 22 23
	Maximum penalty—100 penalty units.	24
	326B Form of records	25
	A person who is required under this part to keep a record must keep the record—	26 27

(a)	in the form of a document written in English with information about amounts expressed in Australian currency; or	1 2 3
(b)	in a form that can be readily converted or translated into the form mentioned in paragraph (a).	4 5 6
	Maximum penalty—100 penalty units.	7
	326C Period for keeping records	8
	A person who is required under this part to keep a record must keep it until the later of the following—	9 10
(a)	5 years has elapsed after it was made or obtained;	11 12
(b)	5 years has elapsed after the completion of the transaction or matter to which it relates.	13 14
	Maximum penalty—100 penalty units.	15
	326D Wilfully damaging records	16
(1)	A person must not wilfully damage a record that is required to be kept under this part.	17 18
	Maximum penalty—100 penalty units.	19
	<i>Note—</i>	20
	This provision is an executive liability provision—see section 412A.	21 22
(2)	In this section—	23
	<i>damage</i> includes destroy.	24
	326E Minister may require translation or conversion of document or information	25 26
(1)	The Minister may, by written notice given to a person, require the person to translate or convert into a written document in the English language	27 28 29

[s 19]

	and Australian currency any document or information the Minister reasonably believes is relevant to the administration or enforcement of a royalty provision.	1 2 3 4
	(2) The notice must state the reasonable time for compliance with the requirement.	5 6
	(3) The person must not fail, without reasonable excuse, to comply with the requirement. Maximum penalty—100 penalty units.	7 8 9
	(4) If the person does not comply with the requirement, the Minister may have the document or information translated or converted.	10 11 12
	(5) The costs and expenses incurred under subsection (4) are a debt payable to the State by the person and may be recovered by the State in a court of competent jurisdiction.	13 14 15 16
	(6) In this section— <i>royalty provision</i> means a provision of this Act administered by the Minister responsible for administering the <i>Taxation Administration Act 2001</i> .	17 18 19 20 21
Clause 19	Amendment of s 412A (Liability of executive officer—particular offences committed by company)	22 23
	Section 412A(5), definition <i>executive liability provision</i> — <i>insert</i> —	24 25
	• section 326D(1)	26
Clause 20	Insertion of new ch 15, pt 9	27
	Chapter 15— <i>insert</i> —	28 29

Part 9	Transitional provisions for Revenue Legislation Amendment Act 2014	1 2 3
820 Definition for pt 9		4
In this part—		5
<i>commencement</i> means the commencement of the provision in which the term is used.		6 7
821 Application of particular provisions for previous section 326 records		8 9
(1) This section applies to a person in relation to a record required to be kept by the person under section 326 as in force immediately before the commencement (<i>previous section 326</i>).		10 11 12 13
(2) On and from the commencement—		14
(a) previous section 326(2) continues to apply to the person in relation to the record; and		15 16
(b) if the person is no longer the holder of a mining claim or mining lease or a person who otherwise mines mineral from land, sections 326A, 326B and 326D also apply to the person in relation to the record.		17 18 19 20 21
Division 3	Amendments commencing on 1 July 2014	22 23
Clause 21	Omission of s 322 (Minister may request audit)	24
	Section 322—	25
	<i>omit.</i>	26

[s 22]

Clause 22	Amendment of s 326E (Minister may require translation or conversion of document or information)	1	
	Section 326E(6)—	2	
	<i>omit.</i>	3	
		4	
Clause 23	Omission of s 327 (Minister may require information)	5	
	Section 327—	6	
	<i>omit.</i>	7	
Clause 24	Omission of ss 328–330	8	
	Sections 328 to 330—	9	
	<i>omit.</i>	10	
Clause 25	Replacement of ch 11, pt 3, hdg (Reassessment and enforcement)	11	
	Chapter 11, part 3, heading—	12	
	<i>omit, insert—</i>	13	
		14	
	Part 3	Royalty administration	15
Clause 26	Insertion of new ch 11, pt 3, div 1 hdg	16	
	Chapter 11, part 3, before section 331—	17	
	<i>insert—</i>	18	
	Division 1	Preliminary	19
Clause 27	Replacement of s 331 (Reassessment of royalty)	20	
	Section 331—	21	
	<i>omit, insert—</i>	22	

331 Definitions for pt 3

In this part—

assessment means a determination made under this part of a royalty-related amount payable by a person for a period, for which an assessment notice is given, and includes a reassessment.

assessment notice see section 331D(1).

default assessment see section 331A(2).

original assessment, for a royalty-related amount payable by a person for a period, means the first assessment by the Minister of the royalty-related amount payable by the person for the period.

reassessment means a determination made under this part of a variation of the royalty-related amount payable by a person for a period, for which an assessment notice is given.

royalty penalty amount see section 331E(1).

royalty-related amount means any of the following amounts—

- (a) an amount of royalty;
- (b) an amount of a civil penalty;
- (c) an amount of unpaid royalty interest;
- (d) a royalty penalty amount;
- (e) if a prescribed fee must accompany a royalty return under a regulation—the amount of the prescribed fee.

Division 2

Royalty assessments and reassessments

[s 27]

- 331A Assessment of royalty** 1
- (1) The Minister must make an assessment of a 2
royalty-related amount payable by a person for 3
each royalty return lodged by the person under 4
this chapter, even if the royalty-related amount 5
payable by the person is nil. 6
- (2) Also, the Minister may, at any time, make an 7
assessment of the royalty-related amount payable 8
by a person for a period (a *default assessment*), if 9
the Minister is reasonably satisfied— 10
- (a) a royalty-related amount is payable by the 11
person for the period; but 12
- (b) the person has not lodged a return for the 13
period under this chapter. 14
- 331B Reassessment of royalty** 15
- (1) The Minister may make a reassessment of a 16
royalty-related amount payable by a person for a 17
period if the Minister is reasonably satisfied the 18
original assessment or an earlier reassessment 19
made for the period was not or is no longer 20
correct. 21
- (2) The Minister must make a reassessment of a 22
royalty-related amount payable by a person for a 23
period if a provision of this or another Act 24
applies to require the reassessment. 25
- (3) A reassessment increasing a royalty-related 26
amount payable by a person for a period may be 27
made at any time. 28
- (4) A reassessment decreasing a royalty-related 29
amount payable by a person for a period must be 30
made within 5 years after the day the original 31
assessment for the period was made (the 32
reassessment period). 33

-
- (5) However, a reassessment decreasing a royalty-related amount payable by a person for a period may be made after the reassessment period if—
- (a) within the reassessment period, the person asks the Minister to reassess a royalty-related amount payable by the person for the period and the Minister agrees to make the reassessment; or
 - (b) the reassessment is required under a provision of this or another Act.
- (6) A reassessment does not replace the previous assessment of a royalty-related amount payable by a person for a period, but merely varies it by—
- (a) decreasing or increasing the royalty-related amount payable by the person; or
 - (b) changing the basis on which the royalty-related amount payable by the person is assessed.

331C Making assessments and default assessments in particular circumstances

- (1) The Minister may make an assessment of a royalty-related amount payable by a person for a period on the available information the Minister considers relevant.
- (2) Subsection (3) applies if—
- (a) the Minister makes a default assessment of a royalty-related amount payable by a person for a period; or
 - (b) the information given by a person in a return or another document relating to the return is insufficient to enable the Minister to determine a royalty-related amount payable by the person for a period; or

[s 27]

- (c) a person fails to give the Minister information or a document required to enable the Minister to determine a royalty-related amount payable by the person for a period. 1
2
3
4
5
- (3) The Minister may make an assessment of the amount the Minister reasonably believes to be the royalty-related amount payable by the person for the period. 6
7
8
9
- (4) If an assessment of a royalty-related amount payable by a person is made under subsection (3) because the person failed to give a document mentioned in subsection (2)(c), the Minister may make an assessment as if the document were in existence and in the Minister's possession. 10
11
12
13
14
15

331D Notice of assessment or reassessment 16

- (1) The Minister must give notice of an assessment or reassessment of a royalty-related amount payable by a person for a period (an *assessment notice*) to the person. 17
18
19
20
- (2) If the royalty-related amount already paid by the person for the period is more than the amount assessed or reassessed as payable for the period, the assessment notice must include the difference between those amounts. 21
22
23
24
25
- (3) Subsection (4) applies if the royalty-related amount already paid by the person for the period is less than the amount assessed or reassessed as payable for the period. 26
27
28
29
- (4) The assessment notice must include— 30
- (a) the amount of the difference between the royalty-related amount paid and the royalty-related amount payable for the period (the *liability difference*); and 31
32
33
34

-
- (b) the day by which the liability difference must be paid (the *due date*); and
- (c) a statement that, under section 332, unpaid royalty interest is payable on the amount of the liability difference, to the extent it is comprised of royalty unpaid from time to time, for the period—
- (i) starting on, and including, the day after the lodgement day; and
- (ii) ending on, and including, the day the liability difference is paid in full; and
- (d) the rate at which the interest is payable; and
- (e) the royalty penalty amount for which the person is liable under section 331E.
- (5) The due date must be at least the following number of days after the day the Minister gives the notice to the person—
- (a) for an assessment other than a reassessment or default assessment—7 days;
- (b) for a reassessment or default assessment—28 days.
- (6) In this section—
- lodgement day*, for a period, means the day a royalty return must be lodged by a person for the period (disregarding any extended time for lodging the return provided for by regulation).

Division 3 Unpaid royalty interest and royalty penalties

331E Liability for royalty penalty amount

- (1) A person is liable to the State for an amount (*royalty penalty amount*) if—

[s 27]

- (a) the Minister makes a default assessment under section 331A(2); or
 - (b) the Minister makes a reassessment and the original assessment was a default assessment under section 331A(2); or
 - (c) the royalty payable by the person for a period on a reassessment under section 331B is more than the royalty assessed as payable by the person on the original assessment, or an earlier reassessment, for the period.
- (2) The royalty penalty amount must be assessed as follows—
- (a) if subsection (1)(a) applies—an amount equal to 75% of the royalty payable;
 - (b) if subsection (1)(b) applies—an amount equal to 75% of the royalty payable under the reassessment;
 - (c) if subsection (1)(c) applies and the royalty payable on the reassessment is more than the royalty assessed on the original assessment—an amount equal to 75% of the difference between the 2 amounts;
 - (d) if subsection (1)(c) applies and the royalty payable on the reassessment is less than the royalty assessed on the original assessment but more than the royalty assessed on an earlier reassessment—an amount equal to 75% of the difference between the royalty payable on the last reassessment and the lowest royalty assessed on an earlier reassessment.
- (3) The Minister may increase the royalty penalty amount by not more than 20% of the royalty penalty amount assessed under subsection (2) if the Minister is reasonably satisfied the person has

hindered or prevented the Minister from 1
becoming aware of the nature and extent of the 2
person's liability to pay royalty. 3

**331F Royalty penalty amount not payable if 4
proceeding for offence started 5**

- (1) This section applies if a person is liable to pay all 6
or part of a royalty penalty amount because of a 7
particular act or omission of the person. 8
- (2) If a proceeding is started against the person for an 9
offence under this Act that is constituted by the 10
particular act or omission and the royalty penalty 11
amount has not been paid, the royalty penalty 12
amount is payable only if the Minister withdraws 13
the proceeding. 14
- (3) If a proceeding is started against the person for an 15
offence under this Act that is constituted by the 16
particular act or omission and the royalty penalty 17
amount has been paid, the Minister must make a 18
reassessment remitting the royalty penalty 19
amount to nil. 20
- (4) However, if the proceeding against the person is 21
withdrawn, the Minister must make a 22
reassessment to reinstate the royalty penalty 23
amount remitted under subsection (3). 24

331G Remission of royalty penalty amount 25

The Minister may remit the whole or part of a royalty 26
penalty amount. 27

Clause 28 Amendment of s 332 (Unpaid royalty interest) 28
Section 332— 29
insert— 30

[s 29]

- (7) If a regulation made under subsection (3) provides for unpaid royalty interest to be worked out if royalty is payable by instalments, and the Minister decides to remit to a person the whole or part of the interest under subsection (6) payable for an instalment, the Minister must give the person a notice stating the amount to be remitted.
- (8) However, subsection (7) only applies if the amount of unpaid royalty interest is to be remitted before an assessment notice is given for the remittance.

Clause 29 Insertion of new ch 11, pt 3, div 4 12

Chapter 11, part 3, after section 332— 13

insert— 14

Division 4 Refunds and payments 15

332AA Refunds 16

- (1) This section applies— 17
- (a) if, on an assessment of a royalty-related amount payable by a person for a period made under section 331A, the royalty-related amount paid for the period is more than the royalty-related amount payable by the person for the period under the assessment (the difference being an *excess amount*); or 21
- (b) if, on a reassessment of a royalty-related amount payable by a person for a period made under section 331B, the royalty-related amount paid for the period is more than the royalty-related amount payable by the person for the period under the reassessment (the difference also being an *excess amount*); or 31

	(c) if—	1
	(i) the royalty-related amount paid by a person for a period is otherwise more than the royalty-related amount payable by the person under this chapter (the difference also being an <i>excess amount</i>); and	2 3 4 5 6 7
	(ii) the Minister has given the person a notice stating the excess amount.	8 9
	(2) The Minister must refund an excess amount mentioned in subsection (1) by—	10 11
	(a) repaying the excess amount to the person; or	12
	(b) crediting the excess amount against an amount the Minister is reasonably satisfied is, or will be, payable by the person for a royalty-related amount.	13 14 15 16
	(3) No interest is payable on the excess amount refunded.	17 18
Clause 30	Amendment of s 332A (Application of payments)	19
	(1) Section 332A, ‘liability relating to royalty’—	20
	<i>omit, insert—</i>	21
	royalty-related amount	22
	(2) Section 332A(a)—	23
	<i>omit, insert—</i>	24
	(a) first, a royalty-related amount, other than unpaid royalty interest or royalty;	25 26
Clause 31	Amendment of s 333 (Recovery of unpaid amounts)	27
	(1) Section 333(1)—	28
	<i>omit, insert—</i>	29

[s 32]

- (1) This section applies if a person does not pay the whole or part of a royalty-related amount payable by the person under this Act. 1
2
3
- (2) Section 333(3), after ‘civil penalty’— 4
insert— 5
or royalty penalty amount 6
- (3) Section 333(4) 7
omit, insert— 8
- (4) In this section— 9
relevant entity means— 10
- (a) for royalty payable to a person other than the State—that person; or 11
12
- (b) otherwise—the State. 13

Clause 32 Insertion of new s 333A, ch 11, pt 3, divs 5–7 and pt 3A 14
After section 333— 15
insert— 16

333A Earlier time for payment of royalty-related amount 17
18

- (1) This section applies despite any other provision of this Act relating to when a royalty-related amount is payable by a person for a period. 19
20
21
- (2) The Minister may, in an assessment notice or notice given under this section, state an earlier date than the date a royalty-related amount would otherwise be payable under this Act (the *ordinary due date*), if the Minister reasonably believes the amount may not be recoverable if the ordinary due date were to apply. 22
23
24
25
26
27
28

-
- (3) The date stated in the notice mentioned in subsection (2) must not be a date before the notice is given. 1
2
3

Division 5 Offences 4

333B Failure to comply with information requirement or lodgement requirement 5 6

- (1) A person must not fail, without reasonable excuse, to comply with an information requirement or a lodgement requirement. 7
8
9

Maximum penalty—100 penalty units. 10

Note— 11

This provision is an executive liability provision—see section 412A. 12
13

- (2) In this section— 14

information requirement means a requirement under a royalty provision to give information to the Minister or a royalty investigator. 15
16
17

lodgement requirement means a requirement under a royalty provision to— 18
19

(a) lodge a document; or 20

(b) give a document to the Minister or a royalty investigator. 21
22

333C False or misleading documents 23

- (1) A person must not give to the Minister or a royalty investigator a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular. 24
25
26
27
28

Maximum penalty—100 penalty units. 29

[s 32]

- Note—* 1
- This provision is an executive liability provision—see 2
section 412A. 3
- (2) Subsection (1) does not apply to a person who, 4
when giving the document— 5
- (a) tells the Minister or royalty investigator of 6
the extent to which the document is false or 7
misleading; and 8
- (b) to the extent the person has, or can 9
reasonably get, the correct 10
information—gives the correct information 11
to the Minister or royalty investigator. 12
- (3) It is enough for a complaint against a person for 13
an offence against subsection (1) to state the 14
document was, without specifying which, ‘false 15
or misleading’. 16

333D False or misleading information 17

- (1) A person must not state anything to the Minister 18
or a royalty investigator that the person knows is 19
false or misleading in a material particular. 20
- Maximum penalty—100 penalty units. 21
- Note—* 22
- This provision is an executive liability provision—see 23
section 412A. 24
- (2) It is enough for a complaint for an offence 25
against subsection (1), to state the statement 26
made was ‘false or misleading’ to the person’s 27
knowledge, without specifying which. 28

333E Self-incrimination not a reasonable excuse for failure to comply with particular requirements	1
	2
	3
(1) This section applies if, under a royalty provision, a person is required by written notice given to the person to—	4
	5
	6
(a) give information or a document to the Minister or a royalty investigator; or	7
	8
(b) lodge a document.	9
(2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.	10
	11
	12
	13
(3) However, evidence of, or evidence directly or indirectly derived from, information or a document given or lodged in compliance with the requirement, by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.	14
	15
	16
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333F Obligation to notify Minister if royalty under assessed	23
	24
(1) A person must advise the Minister if the person becomes aware that—	25
	26
(a) an assessment or reassessment of a royalty-related amount payable by the person for a period was not, or is no longer, correct; and	27
	28
	29
	30
(b) the correct royalty-related amount is more than the amount stated in the assessment notice for the assessment or reassessment for the period.	31
	32
	33
	34

[s 32]

(2)	The person must comply with subsection (1) within 30 days after becoming aware of the matters mentioned in the subsection.	1 2 3
	Maximum penalty—100 penalty units.	4
333G	Obstruction of Minister or royalty investigator	5 6
	A person must not, without reasonable excuse, obstruct—	7 8
	(a) the Minister or a royalty investigator exercising a power under a royalty provision; or	9 10 11
	(b) a person helping the Minister or an investigator exercising a power under a royalty provision.	12 13 14
	Maximum penalty—100 penalty units.	15
333H	Impersonation of royalty investigator	16
	A person must not pretend to be a royalty investigator.	17
	Maximum penalty—40 penalty units.	18
Division 6	Obligations of administrators and garnishees	19 20 21
333I	Definitions for div 6	22
	In this division—	23
	<i>administrator</i> , for a person's property, means another person who is—	24 25
	(a) a receiver or receiver and manager of all or part of the person's property; or	26 27

-
- (b) for a corporation's property—a liquidator; 1
or 2
- (c) for an individual's property— 3
- (i) the individual's trustee in bankruptcy; 4
or 5
- (ii) the individual's personal 6
representative. 7
- garnishee* see section 333L(1)(b). 8
- garnishee amount* see section 333L(3). 9
- garnishee notice* see section 333L(3). 10
- liable person* see section 333L(1)(a). 11

**333J Particular administrators to notify Minister of 12
appointment 13**

- (1) A person who is appointed as administrator for 14
the property of a person by whom a 15
royalty-related amount is payable must, before 16
the required date, give written notice to the 17
Minister of the appointment. 18
- Maximum penalty—40 penalty units. 19
- (2) For subsection (1), the *required date* is— 20
- (a) the date 14 days after the administrator 21
becomes aware, or should reasonably have 22
become aware, the royalty-related amount is 23
payable by the person even if the extent of 24
the liability is not then ascertainable; or 25
- (b) the later date allowed by the Minister. 26
- (3) However, notice is not required in the 27
circumstances prescribed under a regulation. 28

[s 32]

- 333K Administrator's liability for payment** 1
- (1) The Minister has the same powers and remedies 2
in relation to the administrator for the property of 3
a person by whom a royalty-related amount is 4
payable as the Minister would have in relation to 5
the person. 6
- (2) However, an administrator is liable for payment 7
of a royalty-related amount payable by a person 8
only to the extent of the realised value of all 9
property that— 10
- (a) the administrator has taken possession of as 11
administrator; and 12
- (b) was, at any time, available to the 13
administrator for the payment of the 14
royalty-related amount. 15
- 333L Collection of amounts from a garnishee** 16
- (1) This section applies if— 17
- (a) under a royalty provision, a debt is payable 18
by a person (the *liable person*); and 19
- (b) the Minister reasonably believes a person 20
(the *garnishee*)— 21
- (i) holds or may receive an amount for or 22
on account of the liable person; or 23
- (ii) is liable or may become liable to pay an 24
amount to the liable person; or 25
- (iii) has authority to pay an amount to the 26
liable person. 27
- (2) Subsection (1)(b) applies even though the liable 28
person's entitlement to the amount may be 29
subject to unfulfilled conditions. 30
- (3) The Minister may, by written notice given to the 31
garnishee (the *garnishee notice*), require the 32

-
- garnishee to pay to the Minister by a stated date a
stated amount (the *garnishee amount*). 1 2
- (4) Without limiting subsection (3), the garnishee 3
notice may require the garnishee to pay to the 4
Minister an amount out of each payment the 5
garnishee is or becomes liable, from time to time, 6
to make to the liable person. 7
- (5) However, if, on the date for payment under the 8
garnishee notice, the garnishee amount is not 9
held for, or is not liable to be paid to, the liable 10
person by the garnishee, the notice has effect as if 11
the date for payment were immediately after the 12
date the amount is held for, or is liable to be paid 13
to, the liable person by the garnishee. 14
- (6) The garnishee amount must not be more than the 15
debt. 16
- (7) The garnishee must comply with the garnishee 17
notice unless the garnishee has a reasonable 18
excuse. 19
Maximum penalty—40 penalty units. 20
- (8) The Minister must give to the liable person— 21
- (a) a copy of the garnishee notice; and 22
- (b) details in writing of the liable person’s debt 23
to which the notice relates. 24
- 333M Duration of garnishee notice** 25
- The garnishee notice has effect until the garnishee 26
amount is paid or the Minister, by written notice given 27
to the garnishee, withdraws the notice. 28
- 333N Effect of discharge of debt on garnishee 29
notice** 30
- (1) This section applies if— 31
-

[s 32]

- (a) the liable person's debt to which the garnishee notice relates is discharged, whether completely or partly, before the date for payment of the garnishee amount; and
 - (b) the discharge affects the amount to be recovered from the garnishee.
- (2) The Minister must give written notice to the garnishee and the liable person—
- (a) informing them of the extent of the discharge of the debt; and
 - (b) stating the amount payable under the garnishee notice is reduced accordingly; and
 - (c) if the liable person's debt is fully discharged—withdrawing the garnishee notice.

3330 Effect of payment by garnishee

If the garnishee pays an amount to the Minister under a garnishee notice, the garnishee—

- (a) is taken to have acted under the authority of the liable person and all other persons concerned; and
- (b) if the garnishee is under an obligation to pay an amount to the liable person—is to be taken to have satisfied the obligation to the extent of the payment.

Division 7	Use of approved information system for particular decisions	1 2 3
333P Approved information system		4
	The Minister may approve an information system for a royalty provision.	5 6
333Q Minister may arrange for use of an approved information system to make particular decisions		7 8 9
(1)	The Minister may arrange for the use of an approved information system for any purposes for which the Minister may make a relevant decision under a royalty provision.	10 11 12 13
(2)	A relevant decision made by the operation of an approved information system under an arrangement made under subsection (1) is taken to be a decision made by the Minister.	14 15 16 17
(3)	In this section— <i>relevant decision</i> means a decision that does not involve the exercise of the Minister's discretion.	18 19 20
Part 3A	Investigations relating to royalty provisions	21 22
Division 1	Preliminary	23
333R Powers to be exercised only for administering and enforcing royalty provisions		24 25
	A power conferred on the Minister or a royalty investigator under this part may be exercised only for	26 27

[s 32]

the administration or enforcement of a provision of 1
this Act administered by the Minister responsible for 2
administering the *Taxation Administration Act 2001* (a 3
royalty provision). 4

Note— 5

On the commencement of this section, the Minister 6
responsible for administering the *Taxation Administration* 7
Act 2001 was responsible for administering this Act to the 8
extent that it was relevant to royalties. 9

Division 2 Royalty investigators 10

333S Appointment 11

The Minister may appoint an appropriately qualified 12
public service employee as a royalty investigator. 13

333T Appointment conditions and limit on powers 14

(1) A royalty investigator holds office on any 15
conditions stated in— 16

(a) the royalty investigator’s instrument of 17
appointment; or 18

(b) a signed notice given to the royalty 19
investigator; or 20

(c) a regulation. 21

(2) The instrument of appointment, a signed notice 22
given to the royalty investigator or a regulation 23
may limit the royalty investigator’s powers under 24
this part. 25

(3) In this section— 26

signed notice means a notice signed by the 27
Minister. 28

-
- 333U Issue of identity card** 1
- (1) The Minister must issue an identity card to each 2
royalty investigator. 3
- (2) The identity card must— 4
- (a) contain a recent photo of the royalty 5
investigator; and 6
- (b) contain a copy of the royalty investigator’s 7
signature; and 8
- (c) identify the person as a royalty investigator 9
under this Act; and 10
- (d) state an expiry date for the card. 11
- (3) This section does not prevent the issue of a single 12
identity card to a person for this Act and other 13
purposes. 14

- 333V Production of identity card** 15
- (1) In exercising a power mentioned in the *Taxation 16
Administration Act 2001*, part 7, division 2, 17
subdivision 3 or 4 as applied under division 3 of 18
this Act in relation to a person, a royalty 19
investigator must— 20
- (a) first produce his or her identity card for the 21
person’s inspection before exercising the 22
power; or 23
- (b) have the identity card displayed so it is 24
clearly visible to the person when exercising 25
the power. 26
- (2) However, if it is not practicable to comply with 27
subsection (1), the royalty investigator must 28
produce the identity card for the person’s 29
inspection at the first reasonable opportunity. 30
- (3) For subsection (1), a royalty investigator does not 31
exercise a power in relation to a person only 32
because the investigator has entered a place as 33

[s 32]

mentioned in the *Taxation Administration Act 2001*, section 90(1)(b) or (2), as applied under division 3 of this Act. 1
2
3

333W When royalty investigator ceases to hold office 4
5

- (1) A royalty investigator ceases to hold office if any of the following happens— 6
7
- (a) the term of office stated in a condition of office ends; 8
9
 - (b) under another condition of the office, the royalty investigator ceases to hold office; 10
11
 - (c) the royalty investigator’s resignation under section 333X takes effect. 12
13
- (2) Subsection (1) does not limit the ways a royalty investigator may cease to hold office. 14
15
- (3) In this section— 16
- condition of office* means a condition on which a royalty investigator holds office under section 333T. 17
18
19

333X Resignation 20

- (1) A royalty investigator may resign by signed notice given to the Minister. 21
22
- (2) However, if holding office as a royalty investigator is a condition of the investigator holding another office, the investigator may not resign as a royalty investigator without resigning from the other office. 23
24
25
26
27

333Y Return of identity card 28

A person who ceases to be a royalty investigator must return the person’s identity card to the Minister within 29
30

-
- 21 days after ceasing to be a royalty investigator 1
unless the person has a reasonable excuse. 2
- Maximum penalty—40 penalty units. 3

Division 3 Powers of royalty 4
investigators 5

333Z Application of *Taxation Administration Act* 6
2001, pt 7 7

- (1) The Minister and a royalty investigator have and 8
may exercise— 9
- (a) the same powers as those conferred on the 10
commissioner or an investigator under the 11
Taxation Administration Act 2001, part 7, 12
division 2, subdivisions 2 to 6 (the *taxation* 13
investigation provisions); and 14
- Note—* 15
- Under the *Acts Interpretation Act 1954*, section 7, 16
a reference to a provision of a law includes a 17
reference to the statutory instruments made or in 18
force under the provision. 19
- (b) another power conferred on a royalty 20
investigator under this part. 21
- (2) The taxation investigation provisions apply, with 22
all necessary changes, including those mentioned 23
in subsection (3), and with the modifications 24
made under subsection (4)— 25
- (a) to and in relation to the exercise of the 26
powers under the taxation investigation 27
provisions by the Minister or a royalty 28
investigator; and 29
- (b) to and in relation to a person in relation to 30
whom the powers are exercised. 31

[s 32]

- (3) For subsection (2), necessary changes to the taxation investigation provisions include the following, subject to the modifications made under subsection (4)—
- (a) a reference to a tax law were a reference to a royalty provision;
 - (b) a reference to an investigator were a reference to a royalty investigator;
 - (c) a reference to an identity card were a reference to an identity card issued under division 2;
 - (d) a reference to the commissioner were a reference to the Minister, other than the reference in the *Taxation Administration Act 2001*, section 106;
 - (e) a reference in the *Taxation Administration Act 2001*, section 88(7) to a taxpayer were a reference to a person required to pay royalty under section 320;
 - (f) the reference in the *Taxation Administration Act 2001*, section 106 to the commissioner were a reference to the State.
- (4) For subsection (2), the taxation investigation provisions are modified in the following ways—
- (a) the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 applies subject to section 333ZA; and
 - (b) the *Taxation Administration Act 2001*, section 99(2) does not apply.
- (5) To remove any doubt, it is declared that an offence against a TAA offence provision as applied by subsection (2) committed by a person is an offence committed by the person under this Act.

	(6) In this section—	1
	<i>TAA offence provision</i> means—	2
	(a) the <i>Taxation Administration Act 2001</i> , section 88(6); or	3 4
	(b) the <i>Taxation Administration Act 2001</i> , section 96(2) or (4).	5 6
	333ZA Forfeiture of thing seized for testing	7
	(1) A royalty investigator may carry out, or arrange to have carried out, scientific or other tests on a sample of a thing the royalty investigator reasonably considers is a mineral, seized under the <i>Taxation Administration Act 2001</i> , part 7, division 2, subdivision 5 as applied by section 333Z(2).	8 9 10 11 12 13 14
	(2) The testing may have the effect of destroying the thing.	15 16
	(3) The <i>Taxation Administration Act 2001</i> , section 99(1) does not apply in relation to a thing seized and tested under this section.	17 18 19
Clause 33	Omission of s 334 (Furnishing false particulars etc.)	20
	Section 334—	21
	<i>omit.</i>	22
Clause 34	Amendment of s 342 (Powers of authorised officers)	23
	Section 342(11), ‘section 328’—	24
	<i>omit, insert—</i>	25
	section 333E	26

[s 35]

Clause 35	Amendment of s 412A (Liability of executive officer—particular offences committed by company)	1
		2
	Section 412A(5), definition <i>executive liability provision</i> —	3
	<i>insert</i> —	4
	• section 333B(1)	5
	• section 333C(1)	6
	• section 333D(1)	7
Clause 36	Insertion of new ss 822 and 823	8
	Chapter 15, part 9—	9
	<i>insert</i> —	10
	822 Application of ch 11, pt 3, divs 2 and 3 for royalty payable for period occurring before 1 July 2014	11
		12
		13
	(1) Chapter 11, part 3, divisions 2 and 3, as in force on and from 1 July 2014, applies in relation to a royalty-related amount payable by a person for a period even if—	14
		15
		16
		17
	(a) the period started before 1 July 2014;	18
	(b) a person is liable to pay a royalty penalty amount because of a particular act or omission mentioned in section 331F, and that occurred before 1 July 2014.	19
		20
		21
		22
	<i>Example</i> —	23
	The Minister may make an assessment, reassessment or default assessment of a royalty-related amount payable by a person for a period under chapter 11, part 3, division 2 as in force on and from 1 July 2014, even if the period started before 1 July 2014.	24
		25
		26
		27
		28
		29
	(2) For applying subsection (1) in relation to royalty payable for a period occurring before 1 July 2014, a reference in chapter 11, part 3 to an assessment, original assessment or a	30
		31
		32
		33

reassessment includes a reference to an assessment or reassessment made by the Minister under the Act as in force before 1 July 2014.

- (3) Subsection (4) applies if—
- (a) the royalty paid by a person for a period that ended before 1 July 2014 is less than the royalty payable by the person for the period (*a royalty shortfall*); and
 - (b) before 31 December 2014, the person gives the Minister notice, in the approved form, of the royalty shortfall, including the amount of the royalty shortfall; and
 - (c) before the person gives the Minister the notice, the Minister has not already notified the person of the royalty shortfall; and
 - (d) after the commencement, the Minister makes a default assessment or reassessment of the royalty payable by the person for the period.
- (4) The person is not, under section 331E, liable for a royalty penalty amount in relation to the royalty shortfall under the default assessment or reassessment.

823 Application of s 333J to particular administrators

Section 333J applies to an administrator appointed before the commencement as if the required date for section 333J(1) were the later of the following—

- (a) the date 14 days after the commencement;
or
- (b) the required date for section 333J(1).

[s 37]

Clause 37	Amendment of sch 2 (Dictionary)	1
	Schedule 2—	2
	<i>insert—</i>	3
	<i>administrator</i> , for chapter 11, part 3, division 6, see section 333L.	4 5
	<i>assessment</i> , for chapter 11, part 3, see section 331.	6 7
	<i>assessment notice</i> , for chapter 11, part 3, see section 331D(1).	8 9
	<i>civil penalty</i> means a civil penalty provided for under a regulation made under section 321A.	10 11
	<i>default assessment</i> , for chapter 11, part 3, see section 331A(2).	12 13
	<i>garnishee</i> , for chapter 11, part 3, division 6, see section 333L(1)(b).	14 15
	<i>garnishee amount</i> , for chapter 11, part 3, division 6, see section 333L(3).	16 17
	<i>garnishee notice</i> , for chapter 11, part 3, division 6, see section 333L(3).	18 19
	<i>liable person</i> , for chapter 11, part 3, division 6, see section 333L(1)(a).	20 21
	<i>original assessment</i> , for chapter 11, part 3, see section 331.	22 23
	<i>reassessment</i> , for chapter 11, part 3, see section 331.	24 25
	<i>royalty investigator</i> means a person appointed as a royalty investigator under section 333S.	26 27
	<i>royalty provision</i> see section 333R.	28
	<i>royalty penalty amount</i> see section 331E(1).	29
	<i>royalty-related amount</i> see section 331.	30

Part 5	Amendment of Payroll Tax Act 1971	1
		2
Clause 38	Act amended	3
	This part amends the <i>Payroll Tax Act 1971</i> .	4
Clause 39	Amendment of s 14 (Exemption from payroll tax)	5
(1)	Section 14(2)—	6
	<i>insert—</i>	7
	(da) by the following entities—	8
	(i) a department, except to the extent those wages are paid or payable by a commercialised business unit; or	9 10 11
	(ii) a Hospital and Health Service established for Queensland under the <i>Hospital and Health Boards Act 2011</i> , section 17; or	12 13 14 15
(2)	Section 14(9)—	16
	<i>insert—</i>	17
	commercialised business unit means a division, branch or other part of a department carrying on a significant business activity under the <i>Queensland Competition Authority Act 1997</i> , section 39.	18 19 20 21 22
	department means a department under the <i>Financial Accountability Act 2009</i> , section 8.	23 24

[s 40]

Part 6	Amendment of Petroleum and Gas (Production and Safety) Act 2004	1	
		2	
		3	
Division 1	Preliminary	4	
Clause 40	Act amended	5	
	This part amends the <i>Petroleum and Gas (Production and Safety) Act 2004</i> .	6	
		7	
Division 2	Provisions commencing on assent	8	
Clause 41	Insertion of new ch 6, pt 3A	9	
	Chapter 6—	10	
	<i>insert—</i>	11	
	Part 3A	Records	12
	604B Requirement to keep proper records	13	
	(1) A petroleum producer to whom section 590 applies must keep the records necessary to enable the petroleum royalty payable by the person to be ascertained.	14	
		15	
		16	
		17	
	Maximum penalty—100 penalty units.	18	
	(2) For subsection (1), the Minister may, by written notice given to a petroleum producer, require the producer to keep a particular record stated in the notice.	19	
		20	
		21	
		22	
	(3) The producer must not fail, without reasonable excuse, to comply with the notice.	23	
		24	
	Maximum penalty—100 penalty units.	25	

604C Accessibility of records	1
A petroleum producer who is required under this part to keep a record must keep the record in a way that it is able to be readily produced to the Minister if required by the Minister.	2 3 4 5
Maximum penalty—100 penalty units.	6
604D Form of records	7
A petroleum producer who is required under this part to keep a record must keep the record—	8 9
(a) in the form of a document written in English with information about amounts expressed in Australian currency; or	10 11 12
(b) in a form that can be readily converted or translated into the form mentioned in paragraph (a).	13 14 15
Maximum penalty—100 penalty units.	16
604E Period for keeping records	17
A petroleum producer who is required under this part to keep a record must keep it until the later of the following—	18 19 20
(a) 5 years has elapsed after it was made or obtained;	21 22
(b) 5 years has elapsed after the completion of the transaction or matter to which it relates.	23 24
Maximum penalty—100 penalty units.	25
604F Wilfully damaging records	26
(1) A person must not wilfully damage a record that is required to be kept under this part.	27 28
Maximum penalty—100 penalty units.	29

[s 41]

<i>Note</i> —	1
This provision is an executive liability provision—see section 814.	2 3
(2) In this section—	4
<i>damage</i> includes destroy.	5
604G Minister may require translation or conversion of document or information	6 7
(1) The Minister may, by written notice given to a person, require the person to translate or convert into a written document in the English language and Australian currency any document or information the Minister reasonably believes is relevant to the administration or enforcement of a royalty provision.	8 9 10 11 12 13 14
(2) The notice must state the reasonable time for compliance with the requirement.	15 16
(3) The person must not fail, without reasonable excuse, to comply with the requirement.	17 18
Maximum penalty—100 penalty units.	19
(4) If the person does not comply with the requirement, the Minister may have the document or information translated or converted.	20 21 22
(5) The costs and expenses incurred under subsection (4) are a debt payable to the State by the person and may be recovered by the State in a court of competent jurisdiction.	23 24 25 26
(6) In this section—	27
<i>royalty provision</i> means a provision of this Act administered by the Minister responsible for administering the <i>Taxation Administration Act 2001</i> .	28 29 30 31

Clause 42	Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	1 2
	Section 814(5), definition <i>executive liability provision</i> —	3
	<i>insert</i> —	4
	• section 604F(1)	5
Division 3	Provisions commencing on 1 July 2014	6 7
Clause 43	Amendment of s 81 (Conditions for renewal application)	8
	Section 81(1)(d)—	9
	<i>omit, insert</i> —	10
	(d) a royalty-related amount payable by the holder;	11 12
Clause 44	Amendment of s 103 (Applying to divide)	13
	Section 103(3)(d)—	14
	<i>omit, insert</i> —	15
	(d) a royalty-related amount payable by the holder;	16 17
Clause 45	Amendment of s 161 (Conditions for renewal application)	18
	Section 161(1)(d)—	19
	<i>omit, insert</i> —	20
	(d) a royalty-related amount payable by the holder;	21 22
Clause 46	Amendment of s 171 (Applying to divide)	23
	Section 171(3)(d)—	24
	<i>omit, insert</i> —	25

[s 47]

	(d) a royalty-related amount payable by the holder;	1 2
Clause 47	Amendment of s 487 (Operation and purpose of pt 1)	3
	Section 487(2)(c)(i) and (ii)—	4
	<i>omit, insert—</i>	5
	(i) unpaid interest on unpaid petroleum royalty or annual rent;	6 7
	(ii) unpaid civil penalty or royalty penalty amount;	8 9
Clause 48	Amendment of ch 6, pt 2, hdg (Royalty returns)	10
	Chapter 6, part 2, heading, ‘returns’—	11
	<i>omit, insert—</i>	12
	administration	13
Clause 49	Insertion of new ch 6, pt 2, div 1 and ch 6, pt 2, div 2, hdg	14
	Chapter 6, part 2, before section 593—	15
	<i>insert—</i>	16
	Division 1 Preliminary	17
	592A Definitions for pt 2	18
	In this part—	19
	assessment means a determination made under this part of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period, for which an assessment notice is given, and includes a reassessment.	20 21 22 23 24
	assessment notice see section 599E(1).	25
	default assessment see section 599B(2).	26

<i>original assessment</i> , for a royalty-related amount payable by a petroleum producer for a period, means the first assessment by the Minister of the royalty-related amount payable by the producer for the period.	1 2 3 4 5
<i>reassessment</i> means a determination made under this part of a variation of the royalty-related amount payable by a petroleum producer for a period, for which an assessment notice is given.	6 7 8 9
<i>royalty penalty amount</i> see section 601(1).	10
<i>royalty-related amount</i> means any of the following amounts—	11 12
(a) an amount of petroleum royalty;	13
(b) an amount of unpaid royalty interest;	14
(c) a royalty penalty amount;	15
(d) an amount of a civil penalty imposed under a regulation under section 604A;	16 17
(e) if a prescribed fee must accompany a royalty return under section 595(3)—the amount of the prescribed fee.	18 19 20

Division 2 Royalty returns 21

Clause 50	Amendment of s 593 (Application of pt 2)	22
(1)	Section 593, heading, ‘pt 2’—	23
	<i>omit, insert—</i>	24
	div 2	25
(2)	Section 593(1) and (2), ‘This part’—	26
	<i>omit, insert—</i>	27
	This division	28

[s 51]

Clause 51	Amendment of s 594 (Obligation to lodge royalty return)	1
(1)	Section 594(1)—	2
	<i>omit.</i>	3
(2)	Section 594(2), ‘stored,’—	4
	<i>omit, insert—</i>	5
	stored (the <i>ordinary due date</i>), or an earlier day	6
	required by the Minister under subsections (2) and (3),	7
(3)	Section 594(2), penalty—	8
	<i>omit.</i>	9
(4)	Section 594—	10
	<i>insert—</i>	11
	(2A) Subsection (3) applies if the Minister considers	12
	that, for the protection of the public revenue, a	13
	royalty return should be lodged on a day that is	14
	earlier than the ordinary due date.	15
	(2B) The Minister may, by notice, require the producer	16
	to lodge the royalty return on a stated day that is	17
	at least 7 days after the day the Minister gives the	18
	producer the notice.	19
(5)	Section 594(2) to (4)—	20
	<i>renumber</i> as section (1) to (5).	21
Clause 52	Amendment of s 595 (Fee for late lodgement of royalty return)	22
	Section 595(3), ‘mentioned in’—	23
	<i>omit, insert—</i>	24
	the return is required to be lodged under	25
		26

Clause 53	Omission of ss 596 to 598	1
	Sections 596 to 598—	2
	<i>omit.</i>	3
Clause 54	Amendment of s 599 (Annual royalty returns)	4
(1)	Section 599(2), penalty—	5
	<i>omit.</i>	6
(2)	Section 599(3)(b), ‘relates’	7
	<i>omit, insert—</i>	8
	relates (the <i>ordinary due date</i>), or an earlier day	9
	required by the Minister under subsection (4) and (5)	10
(3)	Section 599—	11
	<i>insert—</i>	12
(3A)	Subsection (5) applies if the Minister considers	13
	that, for the protection of the public revenue, an	14
	annual royalty return should be lodged on a day	15
	that is earlier than the ordinary due date.	16
(3B)	The Minister may, by notice, require the producer	17
	to lodge the annual royalty return on a stated day	18
	that is at least 7 days after the day the Minister	19
	gives the producer the notice.	20
(3C)	The producer may apply, in the approved form, to	21
	the Minister to change the day on which an	22
	annual return period for the producer ends (the	23
	<i>return end day</i>)—	24
(a)	if the producer’s current annual return	25
	period ends on 30 June—to 31 December;	26
	or	27
(b)	if the producer’s current annual return	28
	period ends on 31 December—to 30 June.	29
(3D)	The application must be made on or before the	30
	end of the producer’s current annual return period	31

[s 55]

	mentioned in subsection (6), unless the Minister approves, in writing, a later day.	1 2
(3E)	If the Minister approves the application, the producer must lodge an additional return (a <i>transitional return</i>) for the period (the <i>transitional return period</i>)—	3 4 5 6
	(a) starting on the day after the return end day of the producer’s current annual return period mentioned in subsection (6); and	7 8 9
	(b) ending on the 30 June or 31 December to first happen after the day mentioned in paragraph (a).	10 11 12
(3F)	This Act applies to a transitional return made under subsection (8) as if the return were an annual royalty return for an annual return period.	13 14 15
(3G)	If the Minister approves the application and the producer complies with subsection (8), the producer’s <i>annual return period</i> for this section is each 12 month period first starting after the producer’s transitional return period ends.	16 17 18 19 20
(4)	Section 599(4), from ‘In this section’ to ‘means—’— <i>omit, insert—</i>	21 22
	Subject to subsections (6) to (10), a producer’s <i>annual return period</i> is—	23 24
(5)	Section 599(3A) to (4)— <i>renumber</i> as section 599(4) to (11).	25 26
Clause 55	Amendment of s 599A (Minister may require royalty estimate)	27 28
	Section 599A(2), ‘return’— <i>omit, insert—</i>	29 30
	document	31

Clause 56	Insertion of new ch 6, pt 2, divs 3 and 4	1
	Chapter 6, part 2, after section 599A—	2
	<i>insert—</i>	3
	Division 3	4
	Royalty assessments and reassessments	5
	599B Assessment of petroleum royalty	6
	(1) The Minister must make an assessment of a royalty-related amount payable by a petroleum producer for each royalty return and annual royalty return lodged by the producer under this part, even if the amount of royalty payable by the producer is nil.	7 8 9 10 11 12
	(2) Also, the Minister may, at any time, make an assessment of the royalty-related amount payable by a petroleum producer for a royalty return period or annual return period (a <i>default assessment</i>), if the Minister is reasonably satisfied—	13 14 15 16 17 18
	(a) a royalty-related amount is payable by the producer for the period; but	19 20
	(b) the producer has not lodged a return for the period under this part.	21 22
	599C Reassessment of royalty	23
	(1) The Minister may make a reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period if the Minister is reasonably satisfied the original assessment or an earlier reassessment made for the period was not or is no longer correct.	24 25 26 27 28 29 30
	(2) The Minister must make a reassessment of a royalty-related amount payable by a petroleum	31 32

[s 56]

- producer for a royalty return period or annual
return period if a provision of this or another Act
applies to require the reassessment. 1
2
3
- (3) A reassessment increasing a royalty-related 4
amount payable by a petroleum producer for a 5
royalty return period or annual return period may 6
be made at any time. 7
- (4) A reassessment decreasing a royalty-related 8
amount payable by a petroleum producer for a 9
royalty return period or annual return period must 10
be made within 5 years after the day the original 11
assessment for the period was made (the 12
reassessment period). 13
- (5) However, a reassessment decreasing a 14
royalty-related amount payable by a petroleum 15
producer for a royalty return period or annual 16
return period may be made after the reassessment 17
period if— 18
- (a) within the reassessment period, the producer 19
asks the Minister to reassess a 20
royalty-related amount payable by the 21
producer for the period and the Minister 22
agrees to make the reassessment; or 23
- (b) the reassessment is required under a 24
provision of this or another Act. 25
- (6) A reassessment does not replace the previous 26
assessment of a royalty-related amount payable 27
by a petroleum producer for a royalty return 28
period or annual return period, but merely varies 29
it by— 30
- (a) decreasing or increasing the royalty-related 31
amount payable by the producer; or 32
- (b) changing the basis on which the 33
royalty-related amount payable by the 34
producer is assessed. 35

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- | | | |
|-----|--|-------------|
| (7) | If an assessment is made for an annual return period— | 1
2 |
| (a) | no further reassessments are made for royalty return periods occurring during the annual return period; and | 3
4
5 |
| (b) | any reassessment of a royalty-related amount for the period must be made by reassessment for the annual return period. | 6
7
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599D Making assessments and default assessments in particular circumstances 9
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|-----|---|--|
| (1) | The Minister may make an assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period on the available information the Minister considers relevant. | 11
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| (2) | Subsection (3) applies if— | 16 |
| (a) | the Minister makes a default assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period; or | 17
18
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20 |
| (b) | the information given by a petroleum producer in a royalty return or another document relating to the return is insufficient to enable the Minister to determine a royalty-related amount payable by the producer for a royalty return period or annual return period; or | 21
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27 |
| (c) | a petroleum producer fails to give the Minister information or a document required to enable the Minister to determine a royalty-related amount payable by the producer for a royalty return period or annual return period. | 28
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33 |

[s 56]

- (3) The Minister may make an assessment for the amount the Minister reasonably believes to be the royalty-related amount payable by the producer for the period. 1
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- (4) If an assessment of a royalty-related amount payable by a petroleum producer is made under subsection (3) because the producer failed to give a document mentioned in subsection (2)(c), the Minister may make an assessment as if the document were in existence and in the Minister's possession. 5
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599E Notice of assessment or reassessment 12

- (1) The Minister must give notice of an assessment or reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period (an *assessment notice*) to the producer. 13
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- (2) If the royalty-related amount already paid by the producer for the period is more than the amount assessed or reassessed as payable for the period, the assessment notice must include the amount of the difference between those amounts. 18
19
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21
22
- (3) Subsection (4) applies if the royalty-related amount already paid by the producer for the period is less than the amount assessed or reassessed as payable for the period. 23
24
25
26
- (4) The assessment notice must include— 27
- (a) the amount of the difference between the royalty-related amount paid and the royalty-related amount payable for the period (the *liability difference*); and 28
29
30
31
- (b) the day by which the liability difference must be paid (the *due date*); and 32
33

-
- (c) a statement that, under section 602, unpaid royalty interest is payable on the amount of the liability difference, to the extent it is comprised of royalty unpaid from time to time for the period—
- (i) starting on, and including, the day after the lodgement day; and
 - (ii) ending on, and including, the day the liability difference is paid in full; and
- (d) the rate at which the interest is payable; and
- (e) the royalty penalty amount for which the producer is liable under section 601.
- (5) The due date must be at least the following number of days after the day the Minister gives the notice to the producer—
- (a) for an assessment other than a reassessment or default assessment—7 days;
 - (b) for a reassessment or default assessment—28 days.
- (6) In this section—
- lodgement day*, for a royalty return period or annual return period, means the day a royalty return must be lodged by a petroleum producer for the period.

Division 4 Use of approved information system for particular decisions

599F Approved information system

The Minister may approve an information system for a royalty provision.

[s 57]

599G Minister may arrange for use of an approved information system to make particular decisions	1
	2
	3
(1) The Minister may arrange for the use of an approved information system for any purposes for which the Minister may make a relevant decision under a royalty provision.	4
	5
	6
	7
(2) A relevant decision made by the operation of an approved information system under an arrangement made under subsection (1) is taken to be a decision made by the Minister.	8
	9
	10
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(3) In this section—	12
<i>relevant decision</i> means a decision that does not involve the exercise of the Minister’s discretion.	13
	14

Clause 57 Replacement of ss 600–601	15
Sections 600 and 601—	16
<i>omit, insert—</i>	17
Division 1 General	18
600 Refunds	19
(1) This section applies—	20
(a) if, on an assessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return period made under section 599B, the royalty-related amount paid for the period is more than the royalty-related amount payable by the producer for the period under the assessment (the difference being an <i>excess amount</i>); or	21
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(b) if, on a reassessment of a royalty-related amount payable by a petroleum producer for a royalty return period or annual return	30
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	32

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- period made under section 599C, the
royalty-related amount paid for the period is
more than the royalty-related amount
payable by the producer for the period under
the reassessment (the difference also being
an *excess amount*); or
- (c) if—
- (i) a royalty-related amount paid by a
petroleum producer for a royalty return
period or annual return period is
otherwise more than the royalty-related
amount payable by the producer under
this chapter (the difference also being
an *excess amount*); and
- (ii) the Minister has given the producer a
notice stating the excess amount.
- (2) The Minister must refund an excess amount
mentioned in subsection (1) by—
- (a) repaying the excess amount to the producer;
or
- (b) crediting the excess amount against an
amount the Minister is reasonably satisfied
is, or will be, payable by the producer for a
royalty-related amount.
- (3) No interest is payable on the excess amount
refunded.

601 Liability for royalty penalty amount

- (1) A petroleum producer is liable to the State for an
amount (*royalty penalty amount*) if—
- (a) the Minister makes a default assessment
under section 599B(2); or
- (b) the Minister makes a reassessment and the
original assessment was a default

[s 57]

- assessment under section 599B(2); or 3
- (c) the petroleum royalty payable by the 4
producer for a royalty return period or 5
annual return period on a reassessment 6
under section 599C is more than the 7
petroleum royalty assessed as payable by 8
the producer on the original assessment or 9
an earlier reassessment for the period. 10
- (2) The royalty penalty amount must be assessed as 11
follows— 12
- (a) if subsection (1)(a) applies—an amount 13
equal to 75% of the petroleum royalty 14
payable; 15
- (b) if subsection (1)(b) applies—an amount 16
equal to 75% of the petroleum royalty 17
payable under the reassessment; 18
- (c) if subsection (1)(c) applies and the 19
petroleum royalty payable on the 20
reassessment is more than the royalty 21
assessed on the original assessment—an 22
amount equal to 75% of the difference 23
between the 2 amounts; 24
- (d) if the petroleum royalty payable on the 25
reassessment is less than the petroleum 26
royalty assessed on the original assessment 27
but more than the petroleum royalty 28
assessed on an earlier reassessment—an 29
amount equal to 75% of the difference 30
between the petroleum royalty payable on 31
the last reassessment and the lowest 32
petroleum royalty assessed on an earlier 33
reassessment. 34
- (3) The Minister may increase the royalty penalty 35
amount by not more than 20% of the royalty 36
penalty amount assessed under subsection (2) if 37
the Minister is reasonably satisfied the producer 1
has hindered or prevented the Minister from 2

	becoming aware of the nature and extent of the producer's liability to pay petroleum royalty.	3 4
	601A Royalty penalty amount not payable if proceeding for offence started	5 6
	(1) This section applies if a petroleum producer is liable to pay all or part of a royalty penalty amount because of a particular act or omission of the producer.	7 8 9 10
	(2) If a proceeding is started against the producer for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has not been paid, the royalty penalty amount is payable only if the Minister withdraws the proceeding.	11 12 13 14 15 16
	(3) If a proceeding is started against the producer for an offence under this Act that is constituted by the particular act or omission and the royalty penalty amount has been paid, the Minister must make a reassessment remitting the royalty penalty amount to nil.	17 18 19 20 21 22
	(4) However, if the proceeding against the producer is withdrawn, the Minister must make a reassessment to reinstate the royalty penalty amount remitted under subsection (3).	23 24 25 26
	601B Remission of royalty penalty amount	27
	The Minister may remit the whole or part of a royalty penalty amount.	28 29
Clause 58	Amendment of s 602 (Unpaid royalty interest)	1
	(1) Section 602(1)—	2
	<i>omit, insert—</i>	3

[s 59]

- (1) This section applies if, despite a petroleum producer being required under this Act to pay petroleum royalty, all or part of the royalty (the ***unpaid petroleum royalty***) is unpaid from time to time. 4
5
6
7
8
- (2) Section 602— 9
insert— 10
- (7) If a regulation made under subsection (4) provides for unpaid royalty interest to be worked out if royalty is payable by instalments, and the Minister decides to remit to a petroleum producer the whole or part of the interest under subsection (6) payable for an instalment, the Minister must give the producer a notice stating the amount to be remitted. 11
12
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16
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18
- (8) However, subsection (7) only applies if the amount of unpaid royalty interest is to be remitted before an assessment notice is given for the remittance. 19
20
21
22

Clause 59 Amendment of s 602A (Application of payments) 23

- (1) Section 602A, ‘liability relating to petroleum royalty’— 24
omit, insert— 25
royalty-related amount 26
- (2) Section 602A(a)— 27
omit, insert— 28
- (a) first, a royalty-related amount, other than unpaid royalty interest or petroleum royalty; 29
30
- (3) Section 602A(b), ‘petroleum’— 1
omit. 2

Clause 60	Replacement of s 603 (Recovery of unpaid amounts)	3
	Section 603—	4
	<i>omit, insert—</i>	5
	603 Recovery of unpaid amounts	6
	If a petroleum producer does not pay a royalty-related amount payable by the producer under this Act, the State may recover from the producer as a debt the amount of the royalty-related amount.	7 8 9 10
Clause 61	Replacement of s 604 (Certificate of unpaid petroleum royalty)	11 12
	Section 604—	13
	<i>omit, insert—</i>	14
	604 Earlier time for payment of royalty-related amount	15 16
	(1) This section applies despite any other provision of this Act relating to when a royalty-related amount is payable by a petroleum producer for a period.	17 18 19 20
	(2) The Minister may, in an assessment notice or notice given under this section, state an earlier date than the date the royalty-related amount would otherwise be payable under this Act (the <i>ordinary due date</i>), if the Minister reasonably believes the amount may not be recoverable if the ordinary due date were to apply.	21 22 23 24 25 26 27
	(3) The date stated in the notice mentioned in subsection (2) must not be a date before the notice is given.	28 29 30
Clause 62	Amendment of s 604G (Minister may require translation or conversion of document or information)	1 2
	Section 604G(6)—	3

[s 63]

omit. 4

Clause 63 **Insertion of new ch 6, pt 3, div 2** 5

Chapter 6, part 3, after section 604A— 6

insert— 7

Division 2 **Obligations of** 8

administrators and 9

garnishees 10

604AA Definitions for div 2 11

In this division— 12

administrator, for a person's property, means
another person who is— 13
14

(a) a receiver or receiver and manager of all or
part of the person's property; or 15
16

(b) for a corporation's property—a liquidator;
or 17
18

(c) for an individual's property— 19

(i) the individual's trustee in bankruptcy;
or 20
21

(ii) the individual's personal
representative. 22
23

garnishee see section 604AD(1)(b). 24

garnishee amount see section 604AD(3). 25

garnishee notice see section 604AD(3). 26

liable person see section 604AD(1)(a). 27

604AB Particular administrators to notify Minister of appointment	1 2
(1) A person who is appointed as administrator for the property of a person by whom a royalty-related amount is payable must, before the required date, give written notice to the Minister of the appointment.	3 4 5 6 7
Maximum penalty—40 penalty units.	8
(2) For subsection (1), the <i>required date</i> is—	9
(a) 14 days after the administrator becomes aware, or should reasonably have become aware, the royalty-related amount is payable by the person even if the extent of the liability is not then ascertainable; or	10 11 12 13 14
(b) the later date allowed by the Minister.	15
(3) However, notice is not required in the circumstances prescribed under a regulation.	16 17
604AC Administrator’s liability for payment	18
(1) The Minister has the same powers and remedies in relation to the administrator for the property of a person by whom a royalty-related amount is payable, as the Minister would have in relation to the person.	19 20 21 22 23
(2) However, an administrator is liable for payment of a royalty-related amount payable by a person only to the extent of the realised value of all property that—	24 25 26 27
(a) the administrator has taken possession of as administrator; and	28 29
(b) was, at any time, available to the administrator for the payment of the royalty-related amount.	30 31 32

[s 63]

604AD Collection of amounts from a garnishee	1
(1) This section applies if—	2
(a) under a royalty provision, a debt is payable by a person (the <i>liable person</i>); and	3 4
(b) the Minister reasonably believes a person (the <i>garnishee</i>)—	5 6
(i) holds or may receive an amount for or on account of the liable person; or	7 8
(ii) is liable or may become liable to pay an amount to the liable person; or	9 10
(iii) has authority to pay an amount to the liable person.	11 12
(2) Subsection (1)(b) applies even though the liable person's entitlement to the amount may be subject to unfulfilled conditions.	13 14 15
(3) The Minister may, by written notice given to the garnishee (the <i>garnishee notice</i>), require the garnishee to pay to the Minister by a stated date a stated amount (the <i>garnishee amount</i>).	16 17 18 19
(4) Without limiting subsection (3), the garnishee notice may require the garnishee to pay to the Minister an amount out of each payment the garnishee is or becomes liable, from time to time, to make to the liable person.	20 21 22 23 24
(5) However, if, on the date for payment under the garnishee notice, the garnishee amount is not held for, or is not liable to be paid to, the liable person by the garnishee, the notice has effect as if the date for payment were immediately after the date the amount is held for, or is liable to be paid to, the liable person by the garnishee.	25 26 27 28 29 30 31
(6) The garnishee amount must not be more than the debt.	32 33

-
- (7) The garnishee must comply with the garnishee notice unless the garnishee has a reasonable excuse. 1
2
3
Maximum penalty—40 penalty units. 4
- (8) The Minister must give to the liable person— 5
- (a) a copy of the garnishee notice; and 6
 - (b) details in writing of the liable person’s debt to which the notice relates. 7
8

604AE Duration of garnishee notice 9

The garnishee notice has effect until the garnishee amount is paid or the Minister, by written notice given to the garnishee, withdraws the notice. 10
11
12

604AF Effect of discharge of debt on garnishee notice 13
14

- (1) This section applies if— 15
- (a) the liable person’s debt to which the garnishee notice relates is discharged, whether completely or partly, before the date for payment of the garnishee amount; and 16
17
18
19
20
 - (b) the discharge affects the amount to be recovered from the garnishee. 21
22
- (2) The Minister must give written notice to the garnishee and the liable person— 23
24
- (a) informing them of the extent of the discharge of the debt; and 25
26
 - (b) stating the amount payable under the garnishee notice is reduced accordingly; and 27
28
 - (c) if the liable person’s debt is fully discharged—withdrawing the garnishee notice. 29
30
31

[s 64]

604AG Effect of payment by garnishee	1
If the garnishee pays an amount to the Minister under a garnishee notice, the garnishee—	2 3
(a) is taken to have acted under the authority of the liable person and all other persons concerned; and	4 5 6
(b) if the garnishee is under an obligation to pay an amount to the liable person—is to be taken to have satisfied the obligation to the extent of the payment.	7 8 9 10

Clause 64	Replacement of ch 6, pt 4 (Monitoring payment of petroleum royalty)	11 12
	Chapter 6, part 4—	13
	<i>omit, insert—</i>	14

Part 4	Offences for royalty provisions	15 16
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605 Failure to comply with information requirement or lodgement requirement	17 18
(1) A person must not fail, without reasonable excuse, to comply with an information requirement or a lodgement requirement.	19 20 21
Maximum penalty—100 penalty units.	22
<i>Note—</i>	23
This provision is an executive liability provision—see section 814.	24 25
(2) In this section—	26
<i>information requirement</i> means a requirement under a royalty provision to give information to the Minister or a royalty investigator.	27 28 29

-
- lodgement requirement* means a requirement 1
under a royalty provision to— 2
- (a) lodge a document; or 3
 - (b) give a document to the Minister or a royalty 4
investigator. 5

606 False or misleading documents 6

- (1) A person must not give to the Minister or a 7
royalty investigator a document containing 8
information that the person knows, or should 9
reasonably know, is false or misleading in a 10
material particular. 11

Maximum penalty—100 penalty units. 12

Note— 13

This provision is an executive liability provision—see 14
section 814. 15

- (2) Subsection (1) does not apply to a person who, 16
when giving the document— 17
 - (a) tells the Minister or royalty investigator of 18
the extent to which the document is false or 19
misleading; and 20
 - (b) to the extent the person has, or can 21
reasonably get, the correct 22
information—gives the correct information 23
to the Minister or royalty investigator. 24

607 False or misleading information 25

A person must not state anything to the Minister or a 26
royalty investigator that the person knows is false or 27
misleading in a material particular. 28

Maximum penalty—100 penalty units. 29

[s 64]

<i>Note—</i>	1
This provision is an executive liability provision—see section 814.	2 3
608 Self-incrimination not a reasonable excuse for failure to comply with particular requirements	4 5
(1) This section applies if, under a royalty provision, a person is required by written notice given to the person to—	6 7 8
(a) give information or a document to the Minister or a royalty investigator; or	9 10
(b) lodge a document.	11
(2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.	12 13 14 15
(3) However, evidence of, or evidence directly or indirectly derived from, information or a document given or lodged in compliance with the requirement, by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.	16 17 18 19 20 21 22 23 24
609 Obligation to notify Minister if petroleum royalty under assessed	25 26
(1) A person must advise the Minister if the person becomes aware that—	27 28
(a) an assessment or reassessment of a royalty-related amount payable by the person for a royalty return period or annual return period was not, or is no longer, correct; and	29 30 31 32 33

(b) the correct royalty-related amount payable is more than the amount stated in the assessment notice for the assessment or reassessment for the period.	1 2 3 4
(2) The person must comply with subsection (1) within 30 days after becoming aware of the matters mentioned in the subsection.	5 6 7
Maximum penalty—100 penalty units.	8
610 Obstruction of Minister or royalty investigator	9
A person must not, without reasonable excuse, obstruct—	10 11
(a) the Minister or a royalty investigator exercising a power under a royalty provision; or	12 13 14
(b) a person properly helping the Minister or an investigator exercising a power under a royalty provision.	15 16 17
Maximum penalty—100 penalty units.	18
611 Impersonation of royalty investigator	19
A person must not pretend to be a royalty investigator.	20
Maximum penalty—40 penalty units.	21

[s 64]

Part 4A	Investigations relating to royalty provisions	1 2
Division 1	Preliminary	3
612 Powers to be exercised only for administering and enforcing royalty provisions		4 5
A power conferred on the Minister or a royalty investigator under this part may be exercised only for the administration or enforcement of a provision of this Act administered by the Minister responsible for administering the <i>Taxation Administration Act 2001</i> (a <i>royalty provision</i>).		6 7 8 9 10 11
<i>Note—</i>		12
On the commencement of this section, the Minister responsible for administering the <i>Taxation Administration Act 2001</i> was responsible for administering this Act to the extent that it was relevant to petroleum royalties.		13 14 15 16
Division 2	Royalty investigators	17
613 Appointment		18
The Minister may appoint an appropriately qualified public service employee as a royalty investigator.		19 20
614 Appointment conditions and limit on powers		21
(1)	A royalty investigator holds office on any conditions stated in—	22 23
(a)	the royalty investigator’s instrument of appointment; or	24 25
(b)	a signed notice given to the royalty investigator; or	26 27

-
- (c) a regulation. 1
- (2) The instrument of appointment, a signed notice 2
given to the royalty investigator or a regulation 3
may limit the royalty investigator's powers under 4
this part. 5
- (3) In this section— 6
signed notice means a notice signed by the 7
Minister. 8
- 615 Issue of identity card** 9
- (1) The Minister must issue an identity card to each 10
royalty investigator. 11
- (2) The identity card must— 12
- (a) contain a recent photo of the royalty 13
investigator; and 14
- (b) contain a copy of the royalty investigator's 15
signature; and 16
- (c) identify the person as a royalty investigator 17
under this Act; and 18
- (d) state an expiry date for the card. 19
- (3) This section does not prevent the issue of a single 20
identity card to a person for this Act and other 21
purposes. 22
- 616 Production of identity card** 23
- (1) In exercising a power mentioned in the *Taxation 24
Administration Act 2001*, part 7, division 2, 25
subdivision 3 or 4 as applied under division 3 of 26
this Act in relation to a person, a royalty 27
investigator must— 28
- (a) first produce his or her identity card for the 29
person's inspection before exercising the 30
power; or 31

[s 64]

- (b) have the identity card displayed so it is clearly visible to the person when exercising the power. 1
2
3
- (2) However, if it is not practicable to comply with subsection (1), the royalty investigator must produce the identity card for the person's inspection at the first reasonable opportunity. 4
5
6
7
- (3) For subsection (1), a royalty investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in the *Taxation Administration Act 2001*, section 90(1)(b) or (2), as applied under division 3 of this Act. 8
9
10
11
12
13
- 616A When royalty investigator ceases to hold office** 14
15
- (1) A royalty investigator ceases to hold office if any of the following happens— 16
17
- (a) the term of office stated in a condition of office ends; 18
19
- (b) under another condition of the office, the royalty investigator ceases to hold office; 20
21
- (c) the royalty investigator's resignation under section 616B takes effect. 22
23
- (2) Subsection (1) does not limit the ways a royalty investigator may cease to hold office. 24
25
- (3) In this section— 26
- condition of office* means a condition on which a royalty investigator holds office. 27
28
- 616B Resignation** 29
- (1) A royalty investigator may resign by signed notice given to the Minister. 30
31

-
- (2) However, if holding office as a royalty investigator is a condition of the investigator holding another office, the investigator may not resign as a royalty investigator without resigning from the other office.

616C Return of identity card

A person who ceases to be a royalty investigator must return the person's identity card to the Minister within 21 days after ceasing to be a royalty investigator unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 3 Powers of royalty investigators

616D Application of *Taxation Administration Act 2001*, pt 7

- (1) The Minister and a royalty investigator have and may exercise—
- (a) the same powers as those conferred on the commissioner or an investigator under the *Taxation Administration Act 2001*, part 7, division 2, subdivisions 2 to 6 (the *taxation investigation provisions*); and

Note—

Under the *Acts Interpretation Act 1954*, section 7, a reference to a provision of a law includes a reference to the statutory instruments made or in force under the provision.

- (b) another power conferred on a royalty investigator under this part.
- (2) The taxation investigation provisions apply, with all necessary changes, including those mentioned

[s 64]

in subsection (3), and with the modifications	1
made under subsection (4)—	2
(a) to and in relation to the exercise of the	3
powers under the taxation investigation	4
provisions by the Minister or a royalty	5
investigator; and	6
(b) to and in relation to a person in relation to	7
whom the powers are exercised.	8
(3) For subsection (2), necessary changes to the	9
taxation investigation provisions include the	10
following, subject to the modifications made	11
under subsection (4)—	12
(a) a reference to a tax law were a reference to a	13
royalty provision;	14
(b) a reference to an investigator were a	15
reference to a royalty investigator;	16
(c) a reference to an identity card were a	17
reference to an identity card issued under	18
division 2;	19
(d) a reference to the commissioner were a	20
reference to the Minister, other than the	21
reference in the <i>Taxation Administration Act</i>	22
2001, section 106;	23
(e) a reference in the <i>Taxation Administration</i>	24
<i>Act 2001</i> , section 88(7) to a taxpayer were a	25
reference to a person required to pay	26
petroleum royalty under section 590;	27
(f) the reference in the <i>Taxation Administration</i>	28
<i>Act 2001</i> , section 106 to the commissioner	29
were a reference to the State.	30
(4) For subsection (2), the taxation investigation	31
provisions are modified in the following ways—	32
(a) the <i>Taxation Administration Act 2001</i> , part	33
7, division 2, subdivision 5 applies subject	34
to section 617; and	35

(b) the *Taxation Administration Act 2001*, section 99(2) does not apply. 1
2

(5) To remove any doubt, it is declared that an offence against a TAA offence provision as applied by subsection (2) committed by a person is an offence committed by the person under this Act. 3
4
5
6
7

(6) In this section— 8

TAA offence provision means— 9

(a) the *Taxation Administration Act 2001*, section 88(6); or 10
11

(b) the *Taxation Administration Act 2001*, section 96(2) or (4). 12
13

617 Forfeiture of thing seized for testing 14

(1) A royalty investigator may carry out, or arrange to have carried out, scientific or other tests on a sample of a thing the royalty investigator reasonably considers is petroleum, seized under the *Taxation Administration Act 2001*, part 7, division 2, subdivision 5 as applied by 616D(2). 15
16
17
18
19
20

(2) The testing may have the effect of destroying the thing. 21
22

(3) The *Taxation Administration Act 2001*, section 99(1) does not apply in relation to a thing seized and tested under this section. 23
24
25

Clause 65 Amendment of s 736 (Functions) 26

Section 736(2)(a), from ‘other than’— 27

omit, insert— 28

royalty provisions, 29

[s 66]

Clause 66	Amendment of s 813 (False or misleading information)	1	
	Section 813—	2	
	<i>insert—</i>	3	
	(3) This section does not apply to a person for an act or omission of the person if section 606 or 607 applies to the person for the act or omission.	4 5 6	
Clause 67	Amendment of s 814 (Liability of executive officer—particular offences committed by corporation)	7 8	
	Section 814(5), definition <i>executive liability provision—</i>	9	
	<i>insert—</i>	10	
	• section 605(1)	11	
	• section 606(1)	12	
	• section 607(1)	13	
Clause 68	Amendment of s 851AA (Place or way for making applications or giving or lodging documents)	14 15	
	Section 851AA(4)(d)(iii) and (v)—	16	
	<i>omit.</i>	17	
Clause 69	Insertion of new ch 15, pt 18	18	
	Chapter 15—	19	
	<i>insert—</i>	20	
	Part 18	Transitional provisions	21
		for Revenue Legislation	22
		Amendment Act 2014	23

-
- 988 Application of assessment and royalty penalty provisions for petroleum royalty payable for period occurring before 1 July 2014**
- (1) The assessment and royalty penalty provisions apply in relation to petroleum royalty payable by a petroleum producer for a royalty return period or annual return period even if—
- (a) the period started before 1 July 2014; and
 - (b) the producer is liable to pay a royalty penalty amount because of a particular act or omission mentioned in section 601A, and the act or omission occurred before 1 July 2014.
- Example—*
- The Minister may make an assessment, reassessment or default assessment of a royalty-related amount payable by a petroleum producer for a period under chapter 6, part 2, division 3 as in force on and from 1 July 2014, even if the period started before 1 July 2014.
- (2) For applying subsection (1) in relation to royalty payable for a royalty return period or annual return period occurring before 1 July 2014, a determination by the Minister of the petroleum royalty payable on lodgement of a royalty return or annual royalty return for the period under this Act, as in force before 1 July 2014, is taken to be an assessment of royalty payable for the period.
- (3) Subsection (4) applies if—
- (a) the petroleum royalty paid by a petroleum producer for a royalty return period or annual return period that ended before 1 July 2014 is less than the petroleum royalty payable by the producer for the period (a **royalty shortfall**); and
 - (b) before 31 December 2014, the producer gives the Minister notice, in the approved

[s 70]

	form, of the royalty shortfall, including the amount of the royalty shortfall; and	1 2
	(c) before the producer gives the Minister the notice, the Minister has not already notified the producer of the royalty shortfall; and	3 4 5
	(d) after the commencement, the Minister makes a default assessment or reassessment of the royalty payable by the producer for the period.	6 7 8 9
(4)	The producer is not, under section 601, liable for a royalty penalty amount in relation to the royalty shortfall under the default assessment or reassessment.	10 11 12 13
(5)	In this section—	14
	<i>assessment and royalty penalty provisions</i> means the following provisions—	15 16
	(a) chapter 6, part 2, divisions 1 and 3;	17
	(b) sections 601 to 601B.	18
	989 Application of s 604AB to particular administrators	19 20
	Section 604AB applies to an administrator appointed before 1 July 2014 as if the required date under section 604AB(1) were the later of the following—	21 22 23
	(a) the date 14 days after the commencement; or	24 25
	(b) the required date for section 604AB(1).	26
Clause 70	Amendment of sch 2 (Dictionary)	27
	(1) Schedule 2—	28
	<i>insert—</i>	29

<i>administrator</i> , for chapter 6, part 3, division 2, see section 604AA.	1 2
<i>annual royalty return</i> means an annual royalty return lodged under section 599.	3 4
<i>assessment</i> , for chapter 6, see section 592A.	5
<i>assessment notice</i> , for chapter 6, see section 599E(1).	6 7
<i>default assessment</i> , for chapter 6, see section 599B(2).	8 9
<i>garnishee</i> , for chapter 6, part 3, division 2, see section 604AD(1)(b).	10 11
<i>garnishee amount</i> , for chapter 6, part 3, division 2, see section 604AD(3).	12 13
<i>garnishee notice</i> , for chapter 6, part 3, division 2, see section 604AD(3).	14 15
<i>liable person</i> , for chapter 6, part 3, division 2, see section 604AD(1)(a).	16 17
<i>original assessment</i> , for chapter 6, see section 592A.	18 19
<i>reassessment</i> , for chapter 6, see section 592A.	20
<i>royalty investigator</i> means a person appointed as a royalty investigator under section 613.	21 22
<i>royalty penalty amount</i> see section 601(1).	23
<i>royalty provision</i> see section 612.	24
<i>royalty-related amount</i> , for chapter 6, see section 592A.	25 26
(2) Schedule 2, definition <i>annual return period</i> , ‘section 599(4)’—	27 28
<i>omit, insert</i> —	29
section 599(11)	30
(3) Schedule 2, definition <i>royalty information</i> , ‘section 594(4)’—	31

[s 71]

<i>omit, insert—</i>	1
section 594(5)	2
(4) Schedule 2, definition <i>royalty return</i> , ‘section 594(3)’—	3
<i>omit, insert—</i>	4
section 594(4)	5

Part 7	Amendment of State Penalties Enforcement Act 1999	6
		7

Clause 71	Act amended	8
	This part amends the <i>State Penalties Enforcement Act 1999</i> .	9

Clause 72	Amendment of s 10 (Registrar and other staff of SPER)	10
(1)	Section 10, heading—	11
	<i>omit, insert—</i>	12
	10 Staff and contractors	13
(2)	Section 10(3), ‘enforcing’—	14
	<i>omit, insert—</i>	15
	the administration and enforcement of	16
(3)	Section 10(5) to (7)—	17
	<i>omit.</i>	18

Clause 73	Insertion of new ss 10A–10C	19
	After section 10—	20
	<i>insert—</i>	21

10A Service contractors

- 1
- (1) This section applies if, under section 10(3)(b),
2 the registrar engages an entity (the *service*
3 *contractor*) under a contract (the *service*
4 *contract*) to provide services to assist the
5 registrar in the administration and enforcement of
6 this Act. 7
- (2) The service contract may— 8
- (a) state the services (each, an *authorised*
9 *service*) the service contractor is required to
10 provide; and 11
- (b) impose a condition on the provision of an
12 authorised service by the service contractor;
13 and 14
- Example for paragraph (b)—* 15
- a condition requiring the service contractor to
16 obtain the registrar's approval before providing a
17 particular authorised service 18
- (c) include a delegation by the registrar under
19 section 10C(1) or (3); and 20
- (d) authorise the service contractor to
21 subcontract the provision of an authorised
22 service; and 23
- (e) impose a condition on the service
24 contractor's authority to subcontract. 25
- Example for paragraph (e)—* 26
- a condition requiring the service contractor to
27 subcontract only with subcontractors approved by
28 the registrar 29
- (3) When providing an authorised service in
30 accordance with the service contract, the service
31 contractor may— 32
- (a) use the name of SPER; and 33
- (b) do anything necessary for, or incidental to,
34 the provision of the authorised service. 35

[s 73]

- (4) In the performance of an authorised service by the service contractor in accordance with the service contract—
- (a) laws applying to the registrar, other than a law prescribed by regulation, apply to the service contractor as if the service contractor were the registrar; and
 - (b) laws applying to SPER, other than a law prescribed by regulation, apply to the service contractor as if the service contractor were SPER.
- (5) Anything done—
- (a) by the service contractor in accordance with the service contract; or
 - (b) in relation to the service contractor in relation to an authorised service;
- is taken to have been done by or in relation to the registrar or SPER, as the case requires.
- (6) However, the engagement of the service contractor under the service contract does not relieve the registrar of the registrar’s obligations in relation to the proper administration and enforcement of this Act.

10B Service subcontractors

- (1) This section applies if, in accordance with a service contract, the service contractor subcontracts with another entity (the *service subcontractor*) for the provision of an authorised service.
- (2) The contract (the *service subcontract*) between the service contractor and the service subcontractor must comply with any condition imposed by the service contract in relation to subcontracting an authorised service.

-
- (3) The service subcontract— 1
- (a) must state the authorised service the service 2
subcontractor is required to provide; and 3
- (b) may impose a condition on the service 4
subcontractor’s provision of the authorised 5
service. 6
- (4) If the service contract includes a delegation under 7
section 10C(1), the service subcontract may 8
include a delegation of the prescribed function to 9
the service subcontractor that complies with the 10
delegation in the service contract. 11
- (5) If the service contract includes a delegation under 12
section 10C(3), the service subcontract may 13
include a subdelegation of the prescribed 14
function to the service subcontractor that 15
complies with the delegation in the service 16
contract. 17
- (6) When providing an authorised service in 18
accordance with the service subcontract, the 19
service subcontractor may— 20
- (a) use the name of SPER; and 21
- (b) do anything necessary for, or incidental to, 22
the provision of the authorised service. 23
- (7) In the performance of an authorised service by 24
the service subcontractor in accordance with the 25
service subcontract— 26
- (a) laws applying to the registrar, other than a 27
law prescribed by regulation, apply to the 28
service subcontractor as if the service 29
subcontractor were the registrar; and 30
- (b) laws applying to SPER, other than a law 31
prescribed by regulation, apply to the 32
service subcontractor as if the service 33
subcontractor were SPER. 34
- (8) Anything done— 35
-

[s 73]

- (a) by the service subcontractor in compliance with the service subcontract; or
- (b) in relation to the service subcontractor in relation to an authorised service;
- is taken to have been done by or in relation to the registrar or SPER, as the case requires.
- (9) However, the engagement of the service subcontractor under the service subcontract does not relieve—
- (a) the registrar of the registrar’s obligations in relation to the proper administration and enforcement of this Act; or
- (b) the service contractor of the service contractor’s obligations under the service contract.
- (10) In this section—
prescribed function see section 10C(6).
- 10C Delegation of prescribed functions**
- (1) The registrar may delegate the registrar’s power to delegate a prescribed function to a service contractor.
- Note—*
- For the registrar’s power to delegate, see section 161.
- (2) A delegation under subsection (1) can not permit the subdelegation of the delegated power.
- (3) Also, the registrar may delegate a prescribed function to a service contractor.
- (4) A delegation under subsection (3) may permit the subdelegation of the prescribed function by the service contractor.

-
- (5) However, the service contractor must not delegate or subdelegate a prescribed function to anyone other than—
- (a) an appropriately qualified agent, employee or executive officer of the service contractor; or
 - (b) an appropriately qualified subcontractor engaged by the service contractor; or
 - (c) an appropriately qualified agent, employee or executive officer of a service subcontractor mentioned in paragraph (b).
- (6) In this section—
- prescribed function* means a function or power of the registrar, or of SPER, under this Act that is prescribed by regulation for this section.

Clause 74 Insertion of new ss 11A and 11B

After section 11—

insert—

11A Identity cards

- (1) The registrar must issue an identity card to each enforcement officer.
- (2) The identity card must—
 - (a) contain a recent photograph of the enforcement officer; and
 - (b) contain a copy of the enforcement officer's signature; and
 - (c) identify the person as an enforcement officer appointed under this Act; and
 - (d) state an expiry date for the card.

[s 75]

- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes. 1
2
3

11B Return of identity card 4

If the office of a person as an enforcement officer ends, the person must return the person's identity card to the registrar within 21 days after the office ends unless the person has a reasonable excuse. 5
6
7
8

Maximum penalty—40 penalty units. 9

Clause 75 Amendment of s 148 (Electronic transmission of particular documents) 10
11

Section 148(1)— 12

insert— 13

Note— 14

For service of documents under this Act, see section 158. 15
16

Clause 76 Amendment of s 152G (Disclosure of confidential information—information acquired by an official in official's capacity) 17
18
19

Section 152G(6), definition *official*, after 'Act'— 20

insert— 21

, including a person who is providing, or has provided, an authorised service under a service contract or service subcontract 22
23
24

Clause 77 Amendment of s 158 (Service of document) 25

(1) Section 158(1)— 26

omit, insert— 27

(1) A document may be served under this Act— 28

(a)	as provided for under the <i>Acts Interpretation Act 1954</i> , part 10; or	1 2
(b)	if a person gives the person's email address to SPER or the registrar—by sending the document by email to the person's email address; or	3 4 5 6
(c)	in another way prescribed by regulation.	7
(2)	Section 158—	8
	<i>insert</i> —	9
(4)	A document is taken to have been served on a person—	10 11
(a)	for a document served by email under subsection (1)(b)—	12 13
(i)	on the day the email is sent to the person; or	14 15
(ii)	if the email is sent after 5pm—on the following business day; or	16 17
(b)	for a document served in a way prescribed by regulation—the day prescribed by regulation for the method of service.	18 19 20
	<i>Note</i> —	21
	For the time of giving a document by post, see the <i>Acts Interpretation Act 1954</i> , section 39A(1)(b).	22 23

Clause 78	Amendment of s 161 (Delegation by registrar)	24
	Section 161(1)—	25
	<i>omit, insert</i> —	26
(1)	Subject to section 10C, the registrar may delegate functions and powers of the registrar, or of SPER, under this Act to an appropriately qualified person.	27 28 29 30

[s 79]

Clause 79	Amendment of s 165 (Regulation-making power)	1
	Section 165—	2
	<i>insert—</i>	3
	(8) A regulation may prescribe a law to be a law that does not apply to—	4
	(a) a service contractor under section 10A(4);	6
	or	7
	(b) a service subcontractor under section 10B(7).	8
	(9) A regulation may prescribe a function or power of the registrar, or of SPER, under this Act to be a prescribed function for section 10C.	10
	(10) A regulation may be made about—	13
	(a) the way in which a document may be served under this Act; and	14
	(b) when a document is taken to have been served under this Act.	15
		17
Clause 80	Amendment of sch 2 (Dictionary)	18
	(1) Schedule 2, definitions <i>appropriately qualified</i> and <i>public service officer—</i>	19
	<i>omit.</i>	20
	(2) Schedule 2—	21
	<i>insert—</i>	22
	<i>authorised service</i> see section 10A(2).	23
	<i>service contract</i> see section 10A(1).	24
	<i>service contractor</i> see section 10A(1).	25
	<i>service subcontract</i> see section 10B(2).	26
	<i>service subcontractor</i> see section 10B(1).	27
	(3) Schedule 2, definition <i>enforcement officer—</i>	28
		29

[s 84]

176 Application of s 7

1

Section 7, as in force on the day this section
commences, is taken to have had effect on and from 19
February 2014.

2

3

4

Clause 84 Amendment of sch 2 (Dictionary)

5

Schedule 2, definition *senior executive*—
omit.

6

7

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