



Petroleum and Gas (Production and Safety) Act 2004

Reprinted as in force on 30 October 2006

Reprint No. 2F revised edition

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.



Queensland

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Petroleum and Gas (Production and Safety) Act 2004

[as amended by all amendments that commenced on or before 30 October 2006]

An Act about exploring for, recovering and transporting by pipeline, petroleum and fuel gas and ensuring the safe and efficient carrying out of those activities, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Petroleum and Gas (Production and Safety) Act 2004*.

2 Commencement

- (1) Section 968, to the extent it inserts part 19, division 6, subdivisions 1 and 2 in the Mineral Resources Act commences on the date of assent.
- (2) Otherwise, this Act commences on a day to be fixed by proclamation.

Part 2 **Purpose and application of Act**

3 **Purpose of Act**

- (1) The purpose of this Act is to facilitate and regulate the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum and fuel gas industry, in a way that—
 - (a) manages the State’s petroleum resources—
 - (i) in a way that has regard to the need for ecologically sustainable development; and
 - (ii) for the benefit of all Queenslanders; and
 - (b) enhances knowledge of the State’s petroleum resources; and
 - (c) creates an effective and efficient regulatory system for the carrying out of petroleum activities and the use of petroleum and fuel gas; and
 - (d) encourages and maintains an appropriate level of competition in the carrying out of petroleum activities; and
 - (e) creates an effective an efficient regulatory system for the construction and operation of transmission pipelines; and
 - (f) ensures petroleum activities are carried on in a way that minimises conflict with other land uses; and
 - (g) optimises coal seam gas production and coal or oil shale mining in a safe and efficient way; and
 - (h) appropriately compensates owners or occupiers of land; and
 - (i) encourages responsible land management in the carrying out of petroleum activities; and
 - (j) facilitates constructive consultation with people affected by activities authorised under this Act; and

- (k) regulates and promotes the safety of persons in relation to operating plant.¹
- (2) In this section—
- petroleum activities*** means—
- (a) the exploration, distillation, production, processing, refining, storage and transport of petroleum; and
 - (b) the distillation, production, processing, refining, storage and transport of fuel gas; and
 - (c) authorised activities for petroleum authorities; and
 - (d) other activities authorised under this Act for petroleum authorities.

4 Act binds all persons

- (1) This Act binds all persons, including the State, and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

5 Application of Act to coastal waters of the State

- (1) This Act applies to the coastal waters of the State as if the coastal waters of the State were part of the State.
- (2) However, this Act does not apply to the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

Note—

The definition of *the adjacent area* in the *Petroleum (Submerged Lands) Act 1982*, section 4(1) is extended for pipelines under that Act, part 3, division 4. The provisions effectively cover pipelines in the coastal waters of the State.

¹ For what is operating plant, see section 670 (What is an *operating plant*).

6 Relationship with Mineral Resources Act

- (1) This section does not apply to a coal or oil shale mining tenement.²
- (2) The Mineral Resources Act does not limit or otherwise affect—
 - (a) the power to grant or renew a petroleum authority over land (the *overlapping land*) in the area of a mining tenement; or
 - (b) a petroleum authority already granted over land (also the *overlapping land*) in the area of an existing mining tenement.
- (3) However—
 - (a) if the petroleum authority is a pipeline licence or petroleum facility licence—it is subject to section 400 or 440;³ and
 - (b) if the petroleum authority is another type of petroleum authority—it is subject to subsections (4) to (6).
- (4) If the mining tenement is a mining lease (other than a transportation mining lease), an authorised activity for the petroleum authority may be carried out on the overlapping land only if—
 - (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at the following office (the *relevant office*)—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive;

2 See also the Mineral Resources Act, section 3A (Relationship with petroleum legislation).

For the relationship between this Act and the Mineral Resources Act in relation to coal or oil shale mining tenements, see chapter 3 (Provisions for coal seam gas).

3 Sections 400 and 440 (Restriction if there is an existing mining lease)

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) the agreement is still in force.
- (5) If the mining tenement is an exploration permit, mineral development licence or transportation mining lease and the petroleum authority is an authority to prospect, an authorised activity for the petroleum authority may be carried out on the overlapping land only if—
 - (a) the mining tenement holder has agreed in writing to the carrying out of the activity, a copy of the agreement has been lodged at the relevant office and the agreement is still in force; or
 - (b) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenement that has already started.
- (6) If the mining tenement is an exploration permit or a mineral development licence and the petroleum authority is a petroleum lease, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
 - (a) the petroleum lease holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at the relevant office; and
 - (c) the agreement is still in force.
- (7) In this section—

transportation mining lease means a mining lease granted under the Mineral Resources Act, section 316.⁴

6A Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 70QA.⁵

4 Mineral Resources Act, section 316 (Mining lease for transportation through land)

5 *Nature Conservation Act 1992*, sections 27 (Prohibition on mining) and 70QA (Prohibition on mining in forest reserves)

7 Act does not affect other rights or remedies

- (1) Subject to sections 294 and 856 and chapter 3, part 8, this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.⁶
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

8 Native title

- (1) This section applies for applying this Act to land where native title exists.
- (2) A native title holder within the meaning of the Commonwealth Native Title Act, section 224⁷ has the procedural and other rights that the holder has under that Act.
- (3) Subsection (2) applies despite any other provision of this Act.

6 Sections 294 (Responsibility for well or bore after decommissioning) and 856 (Protection from liability for particular persons)
Chapter 3, part 8 (Confidentiality of information)

7 Commonwealth Native Title Act, section 224 (Native title holder)

Part 3 Interpretation

Division 1 Dictionary

9 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

10 Meaning of *petroleum*

- (1) *Petroleum* is—
 - (a) a substance consisting of hydrocarbons that occur naturally in the earth's crust; or
 - (b) a substance necessarily extracted or produced as a by-product of extracting or producing a hydrocarbon mentioned in paragraph (a); or
 - (c) a fluid that—
 - (i) is extracted or produced from coal or oil shale by a chemical or thermal process or that is a by-product of that process; and
 - (ii) consists of, or includes, hydrocarbons; or
 - (d) another substance prescribed under a regulation, consisting of, or including, hydrocarbons; or
 - (e) a gas, that occurs naturally in the earth's crust, as prescribed under a regulation.
- (2) A substance mentioned in subsection (1)(c) is a *gasification or retorting product*.
- (3) To remove any doubt, it is declared that *petroleum* does not include any of the following—
 - (a) alginite;
 - (b) coal;

- (c) lignite;
 - (d) peat;
 - (e) oil shale;⁸
 - (f) torbanite;
 - (g) water.
- (4) A substance does not cease to be petroleum merely because it is injected or reinjected into a natural underground reservoir.
- (5) To remove any doubt, it is declared that, for this Act and petroleum authorities under it, this section preserves, for this Act, the effect of section 150(2) and (3) of the 1923 Act.⁹
- (6) In this section—
hydrocarbon means a hydrocarbon in a gaseous, liquid, or solid state.

11 Meaning of *LPG* and *fuel gas*

- (1) **LPG**, also called ‘LP gas’ and ‘liquefied petroleum gas’, is a substance that—
- (a) is in a gaseous state at standard temperature and pressure; and
 - (b) is predominately propane, propylene or butane; and
 - (c) has been processed to be suitable for use by consumers.¹⁰
- (2) **Fuel gas** is—
- (a) LPG; or
 - (b) processed natural gas; or
 - (c) another substance prescribed under a regulation that is similar to LPG or processed natural gas.

8 See section 300 (What is *oil shale*).

9 Section 150 of the 1923 Act (Declaration about certain 1923 Act petroleum tenures)

10 See section 619 (Who is a *consumer* of fuel gas).

(3) In this section—

processed natural gas means a substance that—

- (a) is in a gaseous state at standard temperature and pressure; and
- (b) consists of naturally occurring hydrocarbons and other substances; and
- (c) is more than half, by volume, methane; and
- (d) has been processed to be suitable for use by consumers of fuel gas.

standard temperature and pressure means an absolute pressure of 101.325kPa at a temperature of 15°C.

12 What is a ***prescribed storage gas***

A ***prescribed storage gas*** is any of the following—

- (a) carbon dioxide;
- (b) a gas associated with, or that results from, petroleum production;

Example—

fuel gas produced at a processing plant

- (c) another gas prescribed under a regulation as being suitable for storage in a natural underground reservoir.

Example of gases suitable for storage in a natural underground reservoir—

gases produced from a waste disposal tip

13 What is a ***natural underground reservoir***

(1) A ***natural underground reservoir*** is a part of a geological formation or structure—

- (a) in which petroleum or another gas prescribed under a regulation has accumulated; or
- (b) that is suitable to store petroleum or a prescribed storage gas.

- (2) A geological formation or structure mentioned in subsection (1) does not cease to be a natural underground reservoir merely because it has been modified for petroleum production or storage or to store a prescribed storage gas.
- (3) In this section—
geological formation includes a coal seam.

14 What is *exploring* for petroleum

Exploring, for petroleum, is carrying out an activity for the purpose of finding petroleum or natural underground reservoirs.

Examples—

- conducting a geochemical, geological or geophysical survey
- drilling a well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis

15 When petroleum is *produced*

- (1) For this Act, petroleum is *produced* when it is recovered or released to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.
- (2) If, under the Mineral Resources Act, section 318CM,¹¹ a coal or oil shale mining lease holder mines incidental coal seam gas, for this Act, the lease holder *produces* it.

16 What is a *pipeline*

- (1) A *pipeline* is a pipe, or system of pipes, for transporting petroleum, fuel gas, prescribed storage gases or substances prescribed under section 402.¹²

11 Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

12 Section 402 (Licence may extend transportation right to other prescribed substances)

- (2) A reference to a ***pipeline*** includes—
- (a) a part of the pipeline; and
 - (b) a thing connected to or associated with the pipeline that is necessary for its operation.

Examples of things that may be included in a reference to a pipeline—

- meter stations, scraper stations, valve stations, pumping stations or compressor stations
- plant and equipment, machinery and tanks
- corrosion protection apparatus
- communications equipment and towers

17 What is a ***petroleum facility***

- (1) A ***petroleum facility*** is a facility for the distillation, processing, refining, storage or transport of petroleum, other than a distribution pipeline.

Examples of things that may be a petroleum facility—

- a storage depot
- a meter station
- a petroleum processing plant
- an oil refinery
- an LPG separation plant

- (2) However, the following facilities are not a petroleum facility—
- (a) a facility constructed or operated under the—
 - (i) *Amoco Australia Pty. Limited Agreement Act 1961*;
or
 - (ii) *Ampol Refineries Limited Agreement Act 1964*;
 - (b) a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a—
 - (i) petroleum lease or pipeline licence under this Act;
or
 - (ii) 1923 Act petroleum tenure.

18 Types of authority under Act

- (1) The following are the types of authority under this Act—
- (a) an *authority to prospect*—
 - (i) granted under section 41;¹³ or
 - (ii) continued in force under section 83 or 119;¹⁴ or
 - (iii) renewed under section 84;¹⁵
 - (b) a *petroleum lease*—
 - (i) granted under section 120, 132, 340 or 356 or chapter 15;¹⁶ or
 - (ii) continued in force under section 163; or
 - (iii) renewed under section 164;
 - (c) a *data acquisition authority*, granted under section 178;
 - (d) a *water monitoring authority* granted under section 192;
 - (e) a *survey licence* granted under section 396;
 - (f) a *pipeline licence*—
 - (i) granted under section 410; or
 - (ii) continued in force under section 481; or
 - (iii) renewed under section 482;
 - (g) a *petroleum facility licence*—
 - (i) granted under section 446; or
 - (ii) continued in force under section 481; or
 - (iii) renewed under section 482;

13 Section 41 (Deciding whether to grant authority to prospect)

14 Section 83 (Continuing effect of authority for renewal application) or 119 (Continuing effect of authority to prospect for ATP-related application)

15 Section 84 (Deciding application)

16 Section 120 (Right to grant if requirements for grant met), 132 (Deciding whether to grant petroleum lease), 340 (Right to grant if particular requirements met) or 356 (Right to grant if particular requirements met)

Chapter 15 (Repeal and transitional provisions)

- (h) a **gas work licence** granted under chapter 9, part 6, division 3, subdivision 1;
 - (i) a **gas work authorisation** granted under chapter 9, part 6, division 3, subdivision 1.¹⁷
- (2) The authorities, other than a gas work licence or authorisation, are collectively referred to as a **petroleum authority**.
 - (3) Authorities to prospect and petroleum leases are collectively referred to as a **petroleum tenure**.
 - (4) Survey licences, pipeline licences¹⁸ and petroleum facility licences are collectively referred to as a **licence**.

19 Who is an **eligible person**

An **eligible person** is—

- (a) an adult; or
- (b) a company or a registered body under the Corporations Act; or
- (c) a government owned corporation.

20 What are the **conditions** of a petroleum authority

- (1) The **conditions** of a petroleum authority are—
 - (a) the conditions stated in it from time to time; and
 - (b) the authority holder's obligations under chapters 2 to 5; and
 - (c) any condition of the authority under chapters 2 to 5; and
 - (d) a condition that an authority holder must ensure each person acting for the holder who carries out an authorised activity for the authority complies with its

17 Chapter 9, part 6, division 3, subdivision 1 (Applying for and obtaining gas work licence or authorisation)

18 For the types of pipeline licence, see section 404 (Licence types—area or point to point).

conditions to the extent they apply to the carrying out of the activity.¹⁹

- (2) A condition mentioned in subsection (1)(b) or (c) is a ***mandatory condition*** of the authority.

Note—

If a Coordinator-General's condition applies to a petroleum lease, pipeline licence or petroleum facility licence, or proposed petroleum lease, pipeline licence or petroleum facility licence, for a significant project, and the condition conflicts with a mandatory condition for that type of petroleum authority, the Coordinator-General's condition prevails to the extent of the inconsistency. See sections 123A, 412A and 447A.

21 What are the *provisions* of a petroleum authority

- (1) A reference in this Act to an authority under this Act includes a reference to its provisions.
- (2) A reference in this Act to the provisions of the authority is a reference to its mandatory or other conditions and any thing written in it.

22 What is an *authorised activity*

- (1) An ***authorised activity***, for a petroleum authority, is an activity that its holder is, under this Act or the authority, entitled to carry out in relation to the authority.

Note—

- 1 The provisions of the authority may restrict the carrying out of authorised activities. See sections 42, 85, 123, 165, 178, 396, 412, 447, 484 and 790(3).²⁰

19 For who may carry out an authorised activity for the holder, see section 563 (Who may carry out authorised activity for petroleum authority holder).

20 Sections 42 (Provisions of authority to prospect), 85 (Provisions and term of renewed authority), 123 (Provisions of petroleum lease), 165 (Provisions and term of renewed lease), 178 (Deciding application for data acquisition authority), 396 (Deciding application), 412 (Provisions of licence), 447 (Provisions of licence), 484 (Criteria for decisions) and 790 (Types of noncompliance action that may be taken)

- 2 The carrying out of authorised activities is subject to the restrictions and the authority holder's rights and obligations under chapters 2 to 5. See section 562.²¹
 - 3 For who may carry out an authorised activity for a petroleum authority holder, see section 563.²²
- (2) An **authorised activity**, for a coal or oil shale mining tenement, is an activity that its holder is, under the Mineral Resources Act or the tenement, entitled to carry out or exercise in relation to the tenement.

23 What is a *work program* for an authority to prospect

- (1) The **work program** for an authority to prospect is its current initial or later work program approved under chapter 2, part 1, division 3, as amended from time to time under chapter 2, part 1, division 3, subdivision 6.²³
- (2) For subsection (1), the work program is current if the period to which the program applies has started and not ended.²⁴

24 What is a *development plan* for a petroleum lease

- (1) The **development plan** for a petroleum lease is its current initial or later development plan approved under chapter 2, part 2, division 4.
- (2) For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.²⁵

21 Section 562 (General restriction on carrying out authorised activities)

22 Section 563 (Who may carry out authorised activity for petroleum authority holder)

23 Chapter 2, part 1, division 3, subdivision 6 (Amending work programs)

24 See also section 56 (Authority taken to have work program until decision on whether to approve proposed work program).

See also sections 83(4) (Continuing effect of authority for renewal application), and 91 (Inclusion of evaluation program in work program).

25 See also section 146 (Petroleum lease taken to have development plan until decision on whether to approve proposed development plan).

Division 3 Other matters relating to interpretation

25 Notes in text

A note in the text of this Act is part of this Act.

Part 4 Property in petroleum

26 Petroleum the property of the State

- (1) This section is subject to section 28 and chapter 2, part 6, division 3.²⁶
- (2) All petroleum as follows is, and always has been, the property of the State—
 - (a) petroleum on the surface of land, if it was produced in the State;
 - (b) petroleum in a natural underground reservoir in the State, other than petroleum in the reservoir produced outside the State and injected or reinjected into the reservoir.
- (3) To remove any doubt, it is declared that—
 - (a) a person does not acquire any property in petroleum merely because the person discovers petroleum in a natural underground reservoir; and
 - (b) subsection (2)(a) applies whether or not the land is freehold or other land; and
 - (c) subsection (2)(b) applies whether or not the natural underground reservoir is in or under freehold or other land.

²⁶ Chapter 2, part 6, division 3 (Provisions for stored petroleum or prescribed storage gas after petroleum lease ends)

- (4) This section applies despite any other Act, grant, title or other document in force from the commencement of this section.
- (5) In this section—
 - the State* does not include any of the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

27 Petroleum reservation in land grants

- (1) This section applies to each grant under another Act, other than the 1923 Act, of a right—
 - (a) relating to land that, immediately before the grant, was unallocated State land as defined under the *Land Act 1994*; and
 - (b) that is, or was, issued on or after the commencement of the 1923 Act.²⁷
- (2) The grant is taken to contain a reservation to the State of—
 - (a) all petroleum on or below the surface of the land; and
 - (b) the exclusive right do the following in relation to the land—
 - (i) to enter and carry out any petroleum-related activity;
 - (ii) to authorise, under the provisions of this Act or another Act, others to carry out any petroleum-related activity;
 - (iii) to regulate, under the provisions of this Act or another Act, petroleum-related activities carried out by others.
- (3) In this section—
 - grant*, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.
 - petroleum-related activity* means any activity that may be carried out under this Act by the holder of any petroleum authority.

²⁷ The 1923 Act commenced on 12 November 1923.

28 Property in petroleum produced

- (1) If a person produces petroleum, it becomes the person's property—
 - (a) if the petroleum is produced under this Act; or
 - (b) for coal seam gas—if it is mined under the Mineral Resources Act, section 318CM or 747.²⁸
- (2) However, subsection (1) is subject to—
 - (a) any coordination arrangement or storage agreement to which the person is a party; and
 - (b) any order of the tribunal under section 116;²⁹ and
 - (c) chapter 2, part 6, division 3.³⁰
- (3) Subsection (1) does not cease to apply merely because the petroleum is injected or reinjected into a natural underground reservoir.

Part 5 General provisions for petroleum authorities**29 Graticulation of earth's surface into *blocks* and *sub-blocks***

- (1) A *block* is the land resulting from a notional division of the earth's surface—
 - (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and

28 Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas) or 747 (Continuation of particular rights relating to coal seam gas under mineral hydrocarbon mining leases)

29 Section 116 (Dispute resolution by tribunal)

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

- (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.
- (2) A **sub-block** is the land resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians 1 minute of longitude apart and 2 parallels of latitude 1 minute of latitude apart.
- (3) Each block and sub-block must be identified in the way approved by the chief executive.³¹

30 Petroleum authority does not create an interest in land

The granting of a petroleum authority does not create an interest in any land.

Chapter 2 Petroleum tenures and related matters

Note—

- 1 For the requirement for a petroleum tenure, see section 800.³²
- 2 Chapter 3 imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular petroleum tenures. See section 297.³³

31 See however section 298 (Description of petroleum leases for ch 3 and ch 15, pt 3).

32 Section 800 (Restriction on petroleum tenure activities)

33 Chapter 3 (Provisions for coal seam gas)
Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

Part 1 Authorities to prospect

Division 1 Key authorised activities

31 Operation of div 1

- (1) This division provides for the key authorised activities for an authority to prospect.³⁴
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) section 6; and
 - (b) chapter 3, part 4, division 2; and
 - (c) chapters 5 and 9; and
 - (d) the mandatory and other conditions of the authority; and
 - (e) any exclusion or restriction provided for in the authority on the carrying out of the activities; and
 - (f) any other relevant Act or law.³⁵

32 Exploration and testing

- (1) The authority to prospect holder may carry out any of the following activities in the area of the authority—
 - (a) exploring for petroleum;
 - (b) testing for petroleum production;
 - (c) evaluating the feasibility of petroleum production;

34 For other authorised activities, see part 4 (Water rights for petroleum tenures), chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

35 Section 6 (Relationship with Mineral Resources Act)
Chapter 3 (Provisions for coal seam gas), part 4, division 2 (Restriction on authorised activities on coal mining lease or oil shale mining lease land)
Chapters 5 (Common petroleum authority provisions) and 9 (Safety)

- (d) evaluating or testing natural underground reservoirs for petroleum storage.
- (2) However, the holder must not carry out any of the following—
 - (a) extraction or production of a gasification or retorting product from coal or oil shale by a chemical or thermal process;
 - (b) exploration for coal or oil shale to carry out extraction or production mentioned in paragraph (a).
- (3) The carrying out of activities mentioned in subsection (1), other than exploring for petroleum, is subject to section 73.³⁶
- (4) The rights under subsection (1) may be exercised only by or for the holder.³⁷

33 Incidental activities

- (1) The authority to prospect holder may carry out an activity (an *incidental activity*) in the area of the authority if carrying out the activity is reasonably necessary for, or incidental to, an authorised activity under section 32(1).³⁸

Examples of incidental activities—

- 1 constructing or operating plant or works, including, for example, communication systems, pipelines associated with petroleum testing, powerlines, roads, separation plants, evaporation or storage ponds, tanks and water pipelines
- 2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps
- 3 removing vegetation for, or for the safety of, exploration or testing under section 32(1)

36 Section 73 (Permitted period for production or storage testing)

37 For who may exercise the rights for the holder, see section 563 (Who may carry out authorised activity for petroleum authority holder).

38 See also part 10 (General provisions for petroleum wells, water supply bores and water observation bores), section 239 (Coordination arrangement overrides relevant leases), chapter 5 (Common petroleum authority provisions) and section 20 (What are the *conditions* of a petroleum authority).

- (2) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.³⁹

Division 2 Obtaining authority to prospect

Subdivision 1 Preliminary

34 Operation of div 2

- (1) This division provides for a process for the granting of authorities to prospect by competitive tender.
- (2) To remove any doubt, it is declared that an authority to prospect can only be granted under this division or division 8, subdivision 2.⁴⁰

Subdivision 2 Competitive tenders

35 Call for tenders

- (1) The Minister may publish a gazette notice (a *call for tenders*) inviting tenders for an authority to prospect.⁴¹
- (2) The call must state—
- (a) the proposed area of the authority; and
 - (b) that, under section 99,⁴² particular land may be excluded land for the authority; and
 - (c) the day and time by which tenders in response to it must be made (the *closing time* for the call); and

39 For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

40 Division 8, subdivision 2 (Dividing authorities to prospect)

41 See however chapter 3, part 3, division 1 (Exclusion of power to call for tenders).

42 Section 99 (Minister's power to decide excluded land)

See also section 100 (Minister may add excluded land).

- (d) that the tenders must be lodged before the closing time for the call at the place stated in the approved form for making the tender; and
- (e) that details about each of the following are available at a stated place—
 - (i) any proposed conditions of the authority, other than mandatory conditions, that are likely to impact significantly on exploration in the proposed area;
 - (ii) the required program period for the initial work program for the authority;
 - (iii) any criteria (*special criteria*), other than the work program criteria and capability criteria, proposed to be used to decide whether to grant the authority, or to decide its provisions;⁴³
 - (iv) the weight proposed to be given to each special criteria, work program criteria and capability criteria.
- (3) The call may state other relevant matters, including, for example, matters relevant to the work program criteria and capability criteria.
- (4) The area of the authority must comply with section 98.⁴⁴
- (5) Subsection (2)(e)(i) does not limit the Minister's power under section 42⁴⁵ to decide conditions of the authority if it is granted.

36 Right to tender

- (1) A person⁴⁶ may, by a tender made under section 37, tender for a proposed authority to prospect the subject of a call for tenders.

43 For the capability and work program criteria, see sections 43 (Criteria for decisions) and 49 (Criteria).

44 Section 98 (Area of authority to prospect)

45 Section 42 (Provisions of authority to prospect)

46 See however section 41(2) (Deciding whether to grant authority to prospect).

- (2) However, the tender can not be made—
- (a) after the closing time for the call; or
 - (b) for only part of the area of the proposed authority.

37 Requirements for making tender

A tender for an authority to prospect must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office or place for lodging tenders for proposed authorities to prospect, as stated in a gazette notice by the chief executive; or
 - (ii) if no office or place is gazetted under subparagraph (i)—the office or place stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) address the capability criteria;⁴⁷ and
- (d) include—
 - (i) a statement about how and when the tenderer proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the proposed authority are, or are likely to be, carried out;⁴⁸ and
 - (ii) a proposed work program that complies with the initial work program requirements;⁴⁹ and
- (e) be accompanied by the fee prescribed under a regulation.

38 Right to terminate call for tenders

- (1) The Minister may, by gazette notice, terminate a call for tenders at any time before deciding to grant an authority to

⁴⁷ For the criteria, see section 43 (Criteria for decisions).

⁴⁸ See section 74 (Obligation to consult with particular owners and occupiers).

⁴⁹ See division 3, subdivision 2 (Requirements for proposed initial work programs).

prospect to a person who has made a tender in response to the call.

- (2) All tenders in response to the call lapse when the call is terminated.
- (3) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the termination.

Subdivision 3 Deciding tenders

39 Process for deciding tenders

Subject to section 43,⁵⁰ any process the Minister considers appropriate may be used to decide a call for tenders, including, for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

40 Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for tenders to—
 - (a) pay any amounts necessarily incurred, or to be incurred, to enable the authority to prospect to be granted; and

Example—

amounts required to comply with the Commonwealth Native Title Act, part 2, division 3, subdivision P⁵¹
 - (b) to do all or any of the following within a stated reasonable period—
 - (i) pay the annual rent for the first year of the authority;
 - (ii) give, under section 488,⁵² security for the authority.

50 Section 43 (Criteria for decisions)

51 Commonwealth Native Title Act, part 2, division 3, subdivision P (Right to negotiate)

52 Section 488 (Power to require security for petroleum authority)

- (2) If a preferred tenderer does not—
- (a) comply with a requirement under subsection (1); or
 - (b) do all things reasonably necessary to allow an authority to prospect to be granted to the tenderer;
- the Minister may appoint another tenderer to be the preferred tenderer.

41 Deciding whether to grant authority to prospect

- (1) The Minister may, after the closing time for the call for tenders—
- (a) grant an authority to prospect to 1 tenderer; or
 - (b) refuse to grant any authority to prospect.
- (2) However—
- (a) before deciding to grant the authority, the Minister must decide whether to approve the applicant's proposed initial work program for the authority;⁵³ and
 - (b) the Minister can not grant the authority unless—
 - (i) the tenderer is an eligible person; and
 - (ii) the proposed program has been approved; and
 - (iii) a relevant environmental authority for the authority to prospect has been issued.

42 Provisions of authority to prospect

- (1) Each authority to prospect must state its term and area.⁵⁴
- (2) The term—
- (a) must be for at least the required program period for the initial work program for the authority under the call for tenders; but

53 See also division 3, subdivision 3 (Criteria for deciding whether to approve proposed initial work programs).

54 See however section 98 (Area of authority to prospect).

- (b) must end no later than 12 years after the authority takes effect.
- (3) The authority may also state—
 - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for authorities to prospect; or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority;⁵⁵ and
 - (b) the day it takes effect; and
 - (c) relinquishment days for the authority.⁵⁶
- (4) However, the provisions of the authority may exclude or restrict the carrying out of an authorised activity for the authority.
- (5) The day of effect must not be before the day the authority is granted.
- (6) If no day of effect is stated, the authority takes effect on the day it is granted.
- (7) The first relinquishment day must not be later than 4 years after the day the authority is to take effect.
- (8) The second and any later relinquishment days must not be later than 4 years after the previous relinquishment day.
- (9) If relinquishment days are not stated, its relinquishment days are taken to be—
 - (a) the day that is the fourth anniversary of the authority's day of effect; and
 - (b) each day during its term that is a 4 yearly interval after the day of effect.

⁵⁵ See also section 99 (Minister's power to decide excluded land).

⁵⁶ See section 65 (Standard relinquishment condition).

43 Criteria for decisions

- (1) The matters that must be considered in deciding whether to grant an authority to prospect or deciding its provisions include—
 - (a) any special criteria; and
 - (b) the extent to which the Minister is of the opinion that the tenderer is capable of carrying out authorised activities for the authority, having regard to the tenderer's—
 - (i) financial and technical resources; and
 - (ii) ability to manage petroleum exploration and production; and
 - (c) the applicant's proposed initial work program.⁵⁷
- (2) The matters mentioned in subsection (1)(b) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion mentioned in subsection (1)(b).

44 Notice to unsuccessful tenderers

After a call for tenders has been decided, each tenderer not granted the authority to prospect must be given notice of the decision.⁵⁸

⁵⁷ See also division 3, subdivision 3 (Criteria for deciding whether to approve proposed initial work programs).

⁵⁸ See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

Division 3 Work programs

Subdivision 1 Function and purpose of work program

45 Function and purpose

- (1) The work program for an authority to prospect gives detailed information about the nature and extent of activities to be carried out under the authority.
- (2) The purposes of giving the information are to—
 - (a) allow resource management decisions to be made; and
 - (b) ensure appropriate development of the authority.

Subdivision 2 Requirements for proposed initial work programs

46 Operation of sdiv 2

This subdivision provides for requirements (the *initial work program requirements*) for a proposed work program for a proposed authority to prospect.

47 Program period

- (1) The proposed program must state its period.
- (2) The period must be the same as the required period under the relevant call for tenders.⁵⁹

48 General requirements

- (1) The proposed program must provide for each of the following—

⁵⁹ See section 35 (Call for tenders).

- (a) an overview of the activities proposed to be carried out under the authority or proposed authority during all of its term;
 - (b) for each year of the program period—
 - (i) the extent and nature of petroleum exploration and testing for petroleum production proposed to be carried out during the year; and
 - (ii) generally where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) maps that show where the activities are proposed to be carried out;
 - (d) any other information relevant to the matters mentioned in section 49;⁶⁰
 - (e) reasons why the program is considered appropriate;
 - (f) another matter prescribed under a regulation.
- (2) A regulation may impose requirements about the form of the work program.
- (3) In this section—
- year**, of the program period, means—
- (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and
 - (b) each subsequent period of 12 months or less during the program period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the program period ends before the next anniversary—the day the program period ends.

60 Section 49 (Criteria)

Subdivision 3 Criteria for deciding whether to approve proposed initial work programs

Note—

For the requirement for approval of an initial work program, see section 41.⁶¹

49 Criteria

- (1) The matters that must be considered in deciding whether to approve a proposed initial work program include the appropriateness of the tenderer's proposed work program, having regard to each of the following—
 - (a) the potential of the proposed area of the authority to prospect for petroleum discovery;
 - (b) the extent and nature of the proposed petroleum exploration;

Examples—

- proposed geological, geophysical or geochemical surveying
 - the number of petroleum wells the tenderer proposes to drill, and their type
- (c) when and where the tenderer proposes to carry out the exploration.
- (2) The matters mentioned in subsection (1) are the ***work program criteria***.

61 Section 41 (Deciding whether to grant authority to prospect)

Subdivision 4 Requirements for proposed later work programs

50 Operation of sdiv 4

This subdivision provides for requirements (the *later work program requirements*) for a proposed later work program for an authority to prospect.⁶²

51 General requirements

The proposed program must—

- (a) other than in relation to the program period, comply with the initial work program requirements; and
- (b) state the extent to which the current work program for the authority to prospect has been complied with; and
- (c) if there have been any amendments to the authority or the current work program, state—
 - (i) whether the changes have been incorporated in the proposed program; and
 - (ii) any effect the changes have on the proposed program; and
- (d) state the effect of any petroleum discovery on the proposed program.

52 Program period

- (1) The proposed program must state its period.
- (2) The period must not be longer than—
 - (a) if the term of the rest, or the renewed term, of the authority is less than 4 years—the rest of its term or renewed term; or

⁶² For the requirements to lodge a proposed later work program, see sections 79 (Obligation to lodge proposed later work program), 100 (Minister may add excluded land), 104 (Requirements for making application), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

- (b) if the term of the rest, or the renewed term, of the authority is 4 years or more, the following—
 - (i) generally—4 years from the start of the period;
 - (ii) if the Minister approves a longer period—the longer period.
- (3) However, the Minister can not approve a period longer than the rest of the term or renewed term of the authority.

53 Implementation of evaluation program for potential commercial area

If, under section 91,⁶³ an evaluation program is taken to be an additional part of the existing work program for the authority to prospect, the proposed program must include work necessary to implement the evaluation program for the period of that program.

54 Later work programs for proposed new authorities

Proposed later work programs for an application under division 8, subdivision 2,⁶⁴ to divide an authority to prospect must have a combined effect that is at least the effect of the work program for the original authority.

Subdivision 5 Approval of proposed later work programs

55 Application of sdiv 5

This subdivision applies if, under this Act, a proposed later work program is lodged for approval.⁶⁵

63 Section 91 (Inclusion of evaluation program in work program).

64 Division 8, subdivision 2 (Dividing authorities to prospect)

65 For requirements to lodge a proposed later work program, see sections 79 (Obligation to lodge proposed later work program), 100 (Minister may add excluded land) and 790 (Types of noncompliance action that may be taken), division 5 (Renewals) and division 8, subdivision 2 (Dividing authorities to prospect).

56 Authority taken to have work program until decision on whether to approve proposed work program

- (1) This section applies until—
 - (a) if the proposed program is approved—the holder is given notice of the approval; or
 - (b) if approval of the proposed program is refused—when the refusal takes effect.⁶⁶
- (2) Despite the ending of the program period for the current work program for the authority to prospect—
 - (a) the authority is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the authority.

57 Deciding whether to approve proposed program

- (1) The Minister may approve or refuse to approve the proposed program.
- (2) The matters that must be considered in deciding whether to approve the proposed program include each of the following—
 - (a) the work program criteria and capability criteria and any special criteria that applied for deciding the application for the authority to prospect;⁶⁷
 - (b) the extent to which the current work program has been complied with;
 - (c) any amendments made to the authority or its current work program, and the reasons for the changes;
 - (d) any notice under section 544,⁶⁸ commercial viability report or independent viability assessment for the authority.

⁶⁶ For when the decision takes effect, see section 58 (Steps after, and taking effect of, decision).

⁶⁷ See sections 35(2)(e)(iii) (Call for tenders) and 43 (Criteria for decisions).

⁶⁸ Section 544 (Notice by petroleum tenure holder about discovery and commercial viability)

- (3) Also, if the authority was granted in response to a tender, any other work program proposed by other tenderers for the authority must be taken into account.
- (4) However, subsection (3) applies only to the extent the other program includes the period of the proposed plan.

58 Steps after, and taking effect of, decision

- (1) On approval of the proposed later work program, the holder must be given notice of the approval.
- (2) On refusal to approve the later work program, the holder must be given an information notice about the decision to refuse.
- (3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- (4) A refusal does not take effect until the end of the appeal period for the refusal.⁶⁹

Subdivision 6 Amending work programs

59 Restrictions on amending work program

- (1) An authority to prospect holder may amend the work program for the authority only if—
 - (a) an application for approval of the amendment has been made under this subdivision and the amendment has been approved under this subdivision;⁷⁰ and
 - (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.
- (2) For subsection (1)(b), the requirements are each of the following—
 - (a) the work program can not be the initial work program for the authority;

⁶⁹ See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

⁷⁰ See also section 91 (Inclusion of evaluation program in work program).

- (b) the period of the work program, or any earlier work program for the authority, must not have previously been extended;
- (c) the extension can not be for a term that ends after—
 - (i) 1 year after the current period of the work program; or
 - (ii) 12 years after the authority originally took effect;
- (d) within 3 months before the making of the application—
 - (i) a person (the *designated person*) became a holder of the authority;
 - (ii) a person (also the *designated person*) applied for approval of a transfer of a share in the authority and the transfer has, under section 573,⁷¹ been approved;
- (e) the share, or proposed share, of the designated person in the authority is at least 50%;
- (f) the designated person is not, under the Corporations Act, section 64B,⁷² an entity connected with another person who is a holder of the authority.

60 Applying for approval to amend

- (1) An authority to prospect holder may apply for approval to amend the work program for the authority.
- (2) However, the application can not be made less than 20 business days before the end of the period stated in the work program for carrying out work under the program.

61 Requirements for making application

The application must be—

- (a) lodged at—

⁷¹ Section 573 (Deciding application)

⁷² Corporations Act, section 64B (Entities connected with a corporation)

- (i) the office of the department for lodging work program amendment applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted—the office of the chief executive; and
- (b) accompanied by the fee prescribed under a regulation.

62 Deciding application

- (1) If the proposed amendment—
- (a) does not relate to the initial work program for the authority to prospect; and
 - (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity;
- the Minister may approve the amendment if satisfied the other activity is at least of an equivalent value to the original activity.
- (2) If the application is to extend the period of the work program for the authority, the Minister may approve the amendment only if satisfied —
- (a) the requirements under section 59(2) have been complied with; and
 - (b) the designated person mentioned in section 59(2) is likely to provide additional financial or technical resources for the authority; and
 - (c) the work program will be completed within the period of the extension.

Note—

For additional provisions about relinquishment that apply if the period is extended, see sections 65(1)(c) and 78A.⁷³

- (3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
- (a) not related to—

⁷³ Sections 65 (Standard relinquishment condition) and 78A (Penalty relinquishment if work program not completed within extended period)

- (i) the applicant's financial or technical resources or ability to manage petroleum exploration; or
 - (ii) the results of exploration; and
 - (b) the happening of which is or was beyond the applicant's control; and
 - (c) that could not have been prevented by a reasonable person in the applicant's position.
- (4) Also, if the amendment is approved under subsection (3), any relinquishment day for the authority may be deferred for a period that relates to a circumstance mentioned in subsection (3).
- (5) A deferral under subsection (4)—
- (a) can not be for longer than 12 years after the authority took effect; and
 - (b) does not defer any later relinquishment day for the authority.
- (6) If, under this section, an amendment is approved, a condition (an ***additional relinquishment condition***) may be imposed on the authority requiring its holder to relinquish, by a notice lodged at the following office, at least a stated percentage of the original notional sub-blocks of the authority on or before a stated day—
- (a) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

63 Steps after, and taking effect of, decision

- (1) On approval of the proposed amendment, the holder must be given notice of the approval.
- (2) On refusal to approve the proposed amendment, the holder must be given an information notice about the decision to refuse.

- (3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

Division 4 Key mandatory conditions for authorities to prospect

Subdivision 1 Preliminary

64 Operation of div 4

This division provides for particular mandatory conditions for authorities to prospect.

Note—

- 1 The following provisions also impose mandatory conditions on authorities to prospect—
 - division 1
 - parts 4, 9 and 10
 - sections 181 and 202
 - chapter 3, part 4, division 4
 - chapter 5.⁷⁴
- 2 For what is a mandatory condition, see section 20(2).⁷⁵

74 Division 1 (Key authorised activities)

Parts 4 (Water rights for petroleum tenures), 9 (Existing Water Act bores) and 10 (General provisions for petroleum wells, water supply bores and water observation bores)

Sections 181 and 202 (Additional condition of relevant petroleum tenure)

Chapter 3 (Provisions for coal seam gas), part 4 (Additional provisions for authorities to prospect and data acquisition authorities), division 4 (Conditions)

Chapter 5 (Common petroleum authority provisions)

75 Section 20 (What are the *conditions* of a petroleum authority)

Subdivision 2 Standard relinquishment condition and related provisions

65 Standard relinquishment condition

- (1) It is a condition (the *relinquishment condition*) of each authority to prospect that its holder must relinquish part of its area, as provided for under this subdivision—
 - (a) on or before each of its relinquishment days; and
 - (b) if section 68(3)⁷⁶ applies—on the day provided for under that subsection; and
 - (c) if, under division 3, subdivision 6,⁷⁷ the period of the work program for the authority has been extended—the day on which the extended period ends.
- (2) However, if, under section 62(4),⁷⁸ a relinquishment day for the authority (the *original day*) is deferred for a stated period, for the relinquishment condition—
 - (a) the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period; but
 - (b) the relinquishments required under the relinquishment condition on any later relinquishment days for the authority must be made as if the deferral has not been granted.
- (3) A relinquishment required under the relinquishment condition—
 - (a) must be made by notice (*relinquishment notice*) lodged at—
 - (i) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive; or

76 Section 68 (Adjustments for sub-blocks that can not be counted)

77 Division 3, subdivision 6 (Amending work programs)

78 Section 62 (Deciding application)

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (b) takes effect on the day after lodgment under paragraph (a).
- (4) This section does not prevent the holder from relinquishing, by relinquishment notice, more than the part provided for under this subdivision.

65A Consequence of failure to comply with relinquishment condition

- (1) If the holder of an authority to prospect does not comply with the relinquishment condition the holder must be given a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- (2) If the holder does not comply with the requirement, the authority to prospect is cancelled.

66 Part usually required to be relinquished

- (1) This section is subject to sections 68 and 69.⁷⁹
- (2) The relinquishment for each relinquishment day, and any other day mentioned in section 65(1)(b) or (c) that applies to the authority, must be such that by that day at least 8.33% of the original notional sub-blocks of the authority to prospect have been relinquished for each year that has passed since the authority originally took effect.
- (3) The sub-blocks required to be relinquished under this section is the *usual relinquishment*.

67 Sub-blocks that can not be counted towards relinquishment

- (1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—

⁷⁹ Sections 68 (Adjustments for sub-blocks that can not be counted) and 69 (Adjustment for particular potential commercial areas)

- (a) sub-blocks relinquished under an additional relinquishment condition;⁸⁰
 - (b) sub-blocks in an area that, under section 101,⁸¹ has ceased to be included in the authority to prospect;
 - (c) the mere declaration of the sub-blocks as a potential commercial area for the authority;
 - (d) sub-blocks the subject of an application for a petroleum lease or potential commercial area;
 - (e) sub-blocks relinquished under a penalty relinquishment.
- (2) To remove any doubt, it is declared that a potential commercial area can be relinquished and can be counted as an area relinquished for the relinquishment condition.
- (3) In this section—
- penalty relinquishment*** means a relinquishment that is—
- (a) made under section 78A or under a requirement under section 790(1)(b);⁸² and
 - (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

68 Adjustments for sub-blocks that can not be counted

- (1) This section applies for a relinquishment day if, after taking away all sub-blocks that, under section 67, can not be counted for the relinquishment condition, the balance of the sub-blocks of the authority to prospect is less than the sub-blocks required to be relinquished under the usual relinquishment.
- (2) The relinquishment condition is taken to have been complied with if the authority holder gives a relinquishment notice for all of the balance.
- (3) However, if—

80 See section 62(5) (Deciding application).

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

82 Sections 78A (Penalty relinquishment if work program not completed within extended period) and 790 (Types of noncompliance action that may be taken)

- (a) a sub-block not counted for the relinquishment condition was the subject of an application for a petroleum lease or potential commercial area; and
 - (b) the result of the application is that it is refused;
- the authority holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice for that sub-block.

69 Adjustment for particular potential commercial areas

If the only way to comply with the relinquishment condition is to relinquish all or part of a potential commercial area for the authority, the relinquishment condition is taken to be complied with if all remaining sub-blocks of the original notional sub-blocks of the authority are relinquished.

70 Relinquishment must be by blocks

- (1) A relinquishment under the relinquishment condition can only be by blocks.
- (2) However, if a block contains an area that, under section 67, can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block is relinquished.

71 Ending of authority to prospect if all of its area relinquished

If all of the area of an authority to prospect is relinquished, the authority ends.

Subdivision 3 Other mandatory conditions

72 Restriction on flaring or venting

- (1) An authority to prospect holder must not flare or vent petroleum in a gaseous state produced under the authority unless the flaring or venting is authorised under this section.

- (2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the authority; or
 - (b) for an authorised activity for the authority.
- (3) Venting the gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
 - (b) flaring it is not technically practicable.

73 Permitted period for production or storage testing

- (1) Subject to section 72, an authority to prospect holder may carry out—
 - (a) testing (*production testing*) for petroleum production from each petroleum well in the area of the authority; and
 - (b) testing each natural underground reservoir in the area for the storage of petroleum or a prescribed storage gas.
- (2) However, it is a condition of the authority to prospect that production testing may be carried out for more than 30 days from when the testing on the petroleum well first starts only with the Minister's approval.
- (3) The approval may be given on the conditions the Minister considers appropriate.

74 Obligation to consult with particular owners and occupiers

- (1) An authority to prospect holder must consult, or use reasonable endeavours to consult, with each owner and occupier of private or public land on which authorised activities for the authority are, or are likely to be, carried out.
- (2) The consultation must be about the carrying out of authorised activities for the authority (including, for example, crossing access land for the authority) to the extent they relate to the owners and occupiers.

- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the authority; or
 - (b) if the authority does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, part 2 or 3.⁸³
- (5) A failure to comply with this section does not prevent authorised activities for the authority from being carried out.

75 Petroleum royalty and annual rent

- (1) An authority to prospect holder must pay the State—
 - (a) petroleum royalty as required under chapter 6;⁸⁴ and
 - (b) the annual rent, as prescribed under a regulation.⁸⁵
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

76 Civil penalty for nonpayment of annual rent

- (1) If an authority to prospect holder does not pay the annual rent as required under section 75, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

83 Chapter 5, part 2 (Private land) or 3 (Public land)

84 Chapter 6 (Petroleum royalty)

85 See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

77 Requirement to have work program

The holder of an authority to prospect must have a work program for the authority.

Note—

- 1 The only work program for an authority to prospect is its current initial or later work program, as approved under division 3.
- 2 For the requirements to lodge a proposed later work program see sections 79, 100, 104, 372 and 790.
- 3 For approval of proposed later work programs see division 3, subdivision 5.⁸⁶

78 Compliance with exploration activities in work program

An authority to prospect holder must carry out the exploration activities proposed in the work program.⁸⁷

78A Penalty relinquishment if work program not completed within extended period

(1) If—

- (a) under division 3, subdivision 6,⁸⁸ the period of the work program for an authority to prospect has been extended; and
- (b) the work program is not completed on or before the day on which the extended period ends;

its holder must relinquish a part of the original notional sub-blocks of the authority that the Minister is satisfied corresponds to the amount of the work under the work program that was not completed.

86 Sections 79 (Obligation to lodge proposed later work program), 100 (Minister may add excluded land), 104 (Requirements for making application), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken) Division 3, subdivision 5 (Approval of proposed later work programs)

87 For the minimum work commitment, see section 48(1)(b)(i) (General requirements). See also section 56 (Authority taken to have work program until decision on whether to approve proposed work program).

88 Division 3, subdivision 6 (Amending work programs)

- (2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- (3) If the holder does not comply with subsection (2), the Minister may take action under section 790(1)(b).

79 Obligation to lodge proposed later work program

- (1) This section imposes an obligation on an authority to prospect holder to lodge a proposed later work program for the authority.

Note—

- 1 For approval of the proposed program, see division 3, subdivision 5.⁸⁹
- 2 If the holder wishes to renew the authority, a proposed later work program must be included in the renewal application. See section 82(1).⁹⁰
- (2) The obligation is complied with only if the proposed later work program—
 - (a) is lodged at—
 - (i) the office of the department for lodging proposed later work programs, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later work program requirements;⁹¹ and
 - (c) is accompanied by the relevant fee.
- (3) A proposed later work program must be lodged at least 20, but no more than 60, business days before the end of the program period for the current work program for the authority (the *current work program period*).

89 Division 3, subdivision 5 (Approval of proposed later work programs)

90 Section 82 (Requirements for making application)

91 See division 3, subdivision 4 (Requirements for proposed later work programs).

- (4) However, if before the end of the current work program period, a decision is made not to approve a proposed later work program lodged under subsection (3), the holder may, within the period, lodge another proposed later work program.
- (5) If the holder does not lodge any proposed later work program before the end of the current work program period or if subsection (4) applies and the holder does not lodge another proposed later work program within the current work program period—
 - (a) the holder must be given a notice requiring the holder to lodge a proposed later work program for the authority within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—

relevant fee, for the lodgment of the proposed program, means—

 - (a) if the proposed program is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed program is lodged after the time required under subsection (3)—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current work program period—an amount that is 10 times the prescribed fee; or
 - (iii) if it is not lodged under subsection (4) and it is lodged after the end of the current work program period—an amount that is 20 times the prescribed fee.

80 Consequence of failure to comply with notice to lodge proposed later work program

- (1) If an authority to prospect holder does not comply with a requirement under section 79(5)(a), the authority is cancelled.

- (2) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (1).

Division 5 Renewals

81 Conditions for renewal application

- (1) An authority to prospect holder may apply to renew the authority only if none of the following is outstanding—
- (a) annual rent for the authority;
 - (b) a civil penalty under section 76 for nonpayment of annual rent;
 - (c) interest payable under section 588⁹² on annual rent or a civil penalty;
 - (d) petroleum royalty for petroleum produced under the authority and any unpaid petroleum royalty interest on it;
 - (e) security required for the authority, as required under section 488.⁹³
- (2) Also, the application can not be made—
- (a) more than 60 business days before the end of the term of the authority; or
 - (b) after the authority has ended.

82 Requirements for making application

- (1) The application must—
- (a) be in the approved form; and
 - (b) be lodged at—

92 Section 588 (Interest on amounts owing to the State other than for petroleum royalty)

93 Section 488 (Power to require security for petroleum authority)

- (i) the office of the department for lodging authority to prospect renewal applications, as stated in a gazette notice by the chief executive; or
- (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
- (iii) otherwise—the office of the chief executive; and
- (c) state whether or not the work program for the authority to prospect has been complied with; and
- (d) if the work program has not been complied with—state details of, and the reasons for, each noncompliance; and
- (e) include a proposed later work program for the renewed authority; and
- (f) include a statement about how and when the applicant proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the renewed authority are, or are likely to be, carried out;⁹⁴ and
- (g) address the capability criteria; and
- (h) include information about the matters that, under sections 84 and 86,⁹⁵ must or may be considered in deciding the application; and
- (i) state whether or not the applicant has complied with chapter 5, part 7,⁹⁶ for reports required to be lodged in relation to the authority; and
- (j) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 20 business days before end of the term of the authority—an amount that is 10 times the application fee.

94 See section 74 (Obligation to consult with particular owners and occupiers).

95 Sections 84 (Deciding application) and 86 (Criteria for decisions)

96 Chapter 5, part 7 (Reporting)

- (2) The proposed work program must comply with the later work program requirements.⁹⁷

83 Continuing effect of authority for renewal application

- (1) This section applies if before the application is decided the term of the authority to prospect ends.
- (2) Despite the ending of the term, the authority continues in force until the earlier of the following to happen—
 - (a) the start of any renewed term of the authority;
 - (b) a refusal of the application takes effect;⁹⁸
 - (c) the application is withdrawn;
 - (d) the authority is cancelled under this Act.⁹⁹
- (3) Also, if the applicant has applied for a declaration of a potential commercial area for the authority, the authority continues in force until the declaration application is decided, but only in relation to the area of the proposed potential commercial area applied for.
- (4) If the authority is continued in force under subsection (3), the evaluation program included in the declaration application is taken to be the work program for the authority.
- (5) If the authority is renewed, subsections (2) and (3) are taken never to have applied for the period from the end of the term of the authority being renewed, as stated in that authority.¹⁰⁰

84 Deciding application

- (1) The Minister may grant or refuse the renewal.
- (2) However—

97 See division 3, subdivision 4 (Requirements for proposed later work programs).

For approval of the proposed program, see division 3, subdivision 5 (Approval of proposed later work programs).

98 See section 88 (When refusal takes effect).

99 See also section 56 (Authority taken to have work program until decision on whether to approve proposed work program).

100 See section 85(5) (Provisions and term of renewed authority).

- (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later work program for the renewed authority to prospect;¹⁰¹ and
- (b) the renewal can not be granted unless—
 - (i) the proposed program has been approved; and
 - (ii) the applicant satisfies the capability criteria; and
 - (iii) the Minister is satisfied the applicant—
 - (A) continues to satisfy any special criteria that applied for deciding the application for the authority to prospect being renewed;¹⁰² and
 - (B) has substantially complied with the authority to prospect being renewed; and
 - (iv) a relevant environmental authority for the renewed authority to prospect has been issued.
- (3) Also, if the applicant has been given a notice under section 96¹⁰³ to apply for a petroleum lease, the application must not be decided until the issue of whether a petroleum lease will be granted is decided.
- (4) Subsection (3) does not limit the power under section 97 to take a proposed action as stated in the notice.
- (5) The Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the renewed authority;
 - (b) give, under section 488,¹⁰⁴ security for the renewed authority.
- (6) If the applicant does not comply with the requirement, the application may be refused.

101 See division 3, subdivision 5 (Approval of proposed later work programs).

102 See sections 35(2)(e)(iii) (Call for tenders) and 43 (Criteria for decisions).

103 Section 96 (Ministerial direction to apply for petroleum lease)

104 Section 488 (Power to require security for petroleum authority)

85 Provisions and term of renewed authority

- (1) Subject to this section, section 42¹⁰⁵ applies to the renewed authority to prospect as if it were an authority to prospect granted under division 2.¹⁰⁶
- (2) To remove any doubt, it is declared that the conditions of the renewed authority may be different from the conditions or other provisions of the authority to prospect being renewed.
- (3) The area of the renewed authority must not be more than the area of the authority to prospect being renewed immediately before the renewed authority is to take effect.
- (4) The first relinquishment day for the renewed authority must not be later than 4 years after the day the renewed authority is to take effect.
- (5) If the renewed authority is decided before the end of the term of the authority to prospect being renewed as stated in that authority (the *previous term*), the term of the renewed authority is taken to start from the end of the previous term.
- (6) If the renewed authority is decided after the previous term, the term of the renewed authority starts immediately after the end of the previous term, but—
 - (a) the conditions of the renewed authority do not start until the authority holder is given notice of them; and
 - (b) until the notice is given, the conditions of the authority to prospect being renewed apply to the renewed authority as if they were its conditions.
- (7) The term of the renewed authority must not end more than 12 years from when the authority to prospect originally took effect.
- (8) However, if any part of the area of the renewed authority is a potential commercial area, the term of the renewed authority for that part may be for a longer period that—
 - (a) ends no later than when the declaration ends;¹⁰⁷ and

105 Section 42 (Provisions of authority to prospect)

106 Division 2 (Obtaining authority to prospect)

107 See section 92 (Term of declaration).

- (b) is no more than the last term of the authority being renewed.
- (9) To remove any doubt, it is declared that subsection (8)(b) does not prevent a renewal of the renewed authority.

86 Criteria for decisions

The matters that must be considered in deciding whether to grant the renewal or deciding the provisions of the renewed authority include—

- (a) the work program criteria;¹⁰⁸ and
- (b) whether the applicant continues to satisfy the capability criteria and any special criteria.

87 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

88 When refusal takes effect

A refusal of the application does not take effect until end of the appeal period for the decision to refuse.¹⁰⁹

Division 6 Potential commercial areas

89 Applying for potential commercial area

- (1) The holder of an authority to prospect may apply for a declaration by the Minister that all or a stated part of the area of the authority is a potential commercial area for the authority.
- (2) The application must be—
 - (a) in the approved form; and

108 See section 49 (Criteria).

109 See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

- (b) lodged at—
 - (i) the office of the department for lodging applications for potential commercial area declarations, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) accompanied by the fee prescribed under a regulation.
- (3) The application may be made—
 - (a) for more than 1 part of the area of the authority to prospect; and
 - (b) even if another part of the area of the authority is already a potential commercial area.
- (4) The application must include—
 - (a) a report for, or that includes, the proposed potential commercial area that—
 - (i) meets the requirements under section 231¹¹⁰ for a commercial viability report; and
 - (ii) is still relevant to the circumstances of the proposed potential commercial area;¹¹¹ and
 - (b) an evaluation program for—
 - (i) potential petroleum production or storage in the proposed potential commercial area; and
 - (ii) market opportunities for potential production or storage; and
 - (c) information about the compliance or noncompliance with the conditions of the authority.
- (5) However, subsection (4)(a) does not apply if—

110 Section 231 (Required content of commercial viability report)

111 See part 7 (Commercial viability assessment).

- (a) a commercial viability report or an independent viability assessment relates to, or includes the proposed potential commercial area; and
- (b) the report or assessment is still relevant to the circumstances of the proposed potential commercial area.

90 Deciding potential commercial area application

- (1) The Minister may declare a part the subject of the application to be a potential commercial area only if satisfied—
 - (a) the area is no more than is needed to cover the maximum extent of a natural underground reservoir identified in the report; and
 - (b) petroleum production or storage in the area to be declared, is not, and will not soon be, commercially viable, but is likely to become viable within 15 years.¹¹²
- (2) Also, the area declared—
 - (a) must not be for more than 75 sub-blocks; and
 - (b) must form a single parcel of land.
- (3) In deciding the application, regard must be had to whether the conditions of the relevant authority to prospect have been substantially complied with.
- (4) On refusal of the application, the applicant must be given an information notice about the decision to refuse.
- (5) To remove any doubt, it is declared that the declaration may be made even if the authority to prospect has been continued in force under section 83 or 119.¹¹³

112 See section 85(6)(b) (Provisions and term of renewed authority).

113 Section 83 (Continuing effect of authority for renewal application) or 119 (Continuing effect of authority to prospect for ATP-related application)

91 Inclusion of evaluation program in work program

- (1) If the declaration is made, the evaluation program that accompanied the application is taken to be an additional part of the existing work program for the authority to prospect.¹¹⁴
- (2) If there is an inconsistency between the evaluation program and the rest of the work program, the evaluation program prevails to the extent of the inconsistency.

92 Term of declaration

- (1) Subject to section 93, a declaration of a potential commercial area continues in force for—
 - (a) 15 years from the making of the declaration; or
 - (b) if the declaration states a shorter period during which it is to be in force—the shorter period.
- (2) The matters that must be considered in deciding the shorter period include—
 - (a) when any petroleum discovery was made, whether or not a notice under section 544(1)¹¹⁵ was lodged for the discovery; and
 - (b) any commercial viability report or independent viability assessment for, or that includes, the proposed potential commercial area.
- (3) Despite subsection (1), the declaration ceases if the authority to prospect holder lodges a notice that the holder no longer wishes the area to be a potential commercial area at—
 - (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.¹¹⁶

114 For requirements about the evaluation program in later work programs, see section 53 (Implementation of evaluation program for potential commercial area).

115 Section 544 (Notice by petroleum tenure holder about discovery and commercial viability)

116 See also section 102 (Effect of ending of declaration of potential commercial area).

93 Extension of term of declaration

- (1) If—
- (a) a declaration of a potential commercial area is in force for the area of an authority to prospect; and
 - (b) under the Mineral Resources Act, part 7AA, division 2 or 3,¹¹⁷ a coal or oil shale mining lease has been granted over the area;
- the Minister may, on the application of the authority to prospect holder, extend the term of the declaration for a period that ends no later than 2 years after the mining lease, or any renewal of the mining lease, ends.
- (2) The application must be—
- (a) lodged at—
 - (i) the office of the department for lodging applications under this section, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) On refusal of the application, the applicant must be given an information notice about the decision to refuse.

94 Potential commercial area still part of authority

A declaration of a potential commercial area does not change the land the subject of the declaration from being—

- (a) part of the area of the authority to prospect the subject of the application for the declaration; and
- (b) subject to the authority.

¹¹⁷ Mineral Resources Act, part 7AA, division 2 (Obtaining coal or oil shale mining lease over land in area of authority to prospect (other than by or jointly with, or with the consent of, authority to prospect holder)) or 3 (Obtaining coal or oil shale mining lease over land in area of authority to prospect (by or jointly with, or with the consent of, authority to prospect holder))

Division 7 Provisions to facilitate transition to petroleum lease

95 Application of div 7

This division applies if the Minister reasonably considers the holder of an authority to prospect should apply for a petroleum lease for all or part of the area of the authority because—

- (a) petroleum production in the area—
 - (i) is currently commercially viable; or
 - (ii) is likely to become commercially viable within 2 years; or
- (b) a natural underground reservoir in the area is, or is likely to have, commercial storage potential.

96 Ministerial direction to apply for petroleum lease

- (1) The Minister may give the authority holder a notice stating each of the following—
 - (a) that the Minister proposes to do either of the following, (the *proposed action*) unless the holder has made an appropriate lease application—
 - (i) excise a stated area from the area of the authority;
 - (ii) cancel the authority;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances forming the basis for the grounds;
 - (d) that the holder may, within a stated period, lodge at the following office, submissions about why the holder should not make a petroleum lease application for the stated area—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive;

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (2) The stated period must be reasonable, but must not be more than 6 months.
- (3) In this section—

appropriate lease application means a petroleum lease application for—

 - (a) the stated area or an area that is substantially the same as the stated area; or
 - (b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a petroleum lease in relation to the stated area.

97 Taking proposed action

- (1) Proposed action under section 96 may be taken only if—
 - (a) the stated period under section 96 has ended; and
 - (b) either—
 - (i) the holder has not made an appropriate petroleum lease application under section 96; or
 - (ii) any appropriate lease application under section 96 made by the holder has been refused; and
 - (c) the Minister has considered any submissions lodged by the holder within the period.
- (2) The decision does not take effect until the holder is given an information notice about the decision.
- (3) A refusal of the application takes effect at end of the appeal period for the decision to refuse.¹¹⁸

118 See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

Division 8 Miscellaneous provisions

Subdivision 1 Area provisions

98 Area of authority to prospect

- (1) This section provides for the area of an authority to prospect.
- (2) The area does not include excluded land for the authority.
- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
 - (a) land in the area of another petroleum tenure;
 - (b) excluded land for another petroleum tenure;
 - (c) land in the area of a 1923 Act petroleum tenure;
 - (d) excluded land for a 1923 Act petroleum tenure;
 - (e) land that a regulation prescribes as land over which an authority to prospect can not be granted.
- (5) To remove any doubt, it is declared that if land within the original notional sub-blocks of the authority ceases to be unavailable land, the cessation itself does not cause the land to be within the area of the authority.
- (6) The area may include a part of a block only if the part is all areas within the block that are left after taking away all unavailable land within the block (a *residual block*).
- (7) The area must be no more than 100 blocks or residual blocks, in any combination.

99 Minister's power to decide excluded land

- (1) The Minister may decide excluded land for an authority to prospect or proposed authority to prospect.¹¹⁹

119 See sections 42 (Provisions of authority to prospect) and 85 (Provisions and term of renewed authority).

- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant or renew the authority; or
 - (b) approve any later work program for the authority.
- (3) However, excluded land—
 - (a) must be within the original notional sub-blocks of the authority; and
 - (b) can not be a whole block.
- (4) For subsection (3)(a), if the instrument—
 - (a) states that the authority's area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.
- (5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for an authority to prospect if—
 - (a) the block in which the land is located is relinquished or, for any other reason, ceases to be in the area of the authority; or
 - (b) a petroleum lease is granted over any of the area of the authority and the land is excluded land for the lease.

100 Minister may add excluded land

- (1) The Minister may amend an authority to prospect by adding excluded land for the authority to its area only if—
 - (a) the authority as amended complies with section 98; and
 - (b) the authority holder consents.

- (2) If land mentioned in subsection (1) is added to the area of the authority the land ceases to be excluded land for the authority.
- (3) The Minister may amend the provisions of the authority in a way that reflects the inclusion of the excluded land.¹²⁰
- (4) Also, the Minister may give the authority holder a notice—
 - (a) withdrawing, from a stated day, the approval of the work program for the authority; and
 - (b) directing the holder to lodge at the relevant office a proposed later work program for the authority that—
 - (i) complies with the later work program requirements; and
 - (ii) changes the work program for the authority to reflect the inclusion of the excluded land.
- (5) The amended provisions of the authority or the proposed later work program must not be—
 - (a) inconsistent with the mandatory conditions for authorities to prospect; or
 - (b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority.
- (6) In this section—

relevant office means—

 - (a) the office of the department for lodging proposed later work programs, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

101 Area of authority to prospect reduced on grant of petroleum lease

- (1) Land ceases to be included in the area of an authority to prospect if a petroleum lease is granted over the land.

¹²⁰ See also section 488 (Power to require security for petroleum authority).

- (2) If a petroleum lease is granted over all of the area of an authority to prospect, the authority ends.¹²¹

102 Effect of ending of declaration of potential commercial area

- (1) This section applies if all or part of the area of an authority to prospect is a potential commercial area and the declaration of the potential commercial area ends more than 12 years after the authority originally took effect.¹²²
- (2) If the declaration applied to a part of the area of the authority, the part ceases to be included in its area.
- (3) If the declaration applies to all of the area of the authority, the authority ends.¹²³

Subdivision 2 Dividing authorities to prospect

103 Applying to divide

- (1) The holder of an authority to prospect (the *original authority*) may apply to divide it into 2 or more authorities to prospect (the *new authorities*).
- (2) However, the holder may apply for a new authority to be granted to another person only if the other person—
- (a) agrees to the proposed grant; and
 - (b) is an eligible person.
- (3) Despite subsections (1) and (2), the holder can not make the application if any of the following is outstanding—
- (a) annual rent for the original authority;
 - (b) a civil penalty under section 76 for nonpayment of annual rent;

121 See however, chapter 3, part 4, division 3 (Exceptions to particular area provisions).

122 See section 92 (Term of declaration).

123 If the declaration ends less than 12 years after the authority originally took effect, see section 94 (Potential commercial area still part of authority).

- (c) interest payable under section 588¹²⁴ on annual rent or a civil penalty;
- (d) petroleum royalty payable for petroleum produced under the original authority and any unpaid petroleum royalty interest on it;
- (e) security for the original authority, as required under section 488.¹²⁵

104 Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office of the department for lodging applications to divide an authority to prospect, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state whether or not the work program for the original authority to prospect has been complied with; and
- (d) if the work program for the original authority has not been complied with—state details of, and the reasons for, each noncompliance; and
- (e) include a proposed later work program for each proposed new authority;¹²⁶ and
- (f) address the capability criteria for each proposed holder of the new authorities; and

124 Section 588 (Interest on amounts owing to the State other than for petroleum royalty)

125 Section 488 (Power to require security for petroleum authority)

126 For an additional requirement for the proposed work programs, see section 54 (Later work programs for proposed new authorities).

- (g) state whether or not the holder has complied with chapter 5, part 7,¹²⁷ for reports required to be lodged in relation to the original authority; and
- (h) be accompanied by the fee prescribed under a regulation.

105 Deciding application

- (1) The Minister may make or refuse to make the division.
- (2) However—
 - (a) before deciding to make the division, the Minister must decide whether to approve the proposed later work programs for the new authorities;¹²⁸ and
 - (b) the division can not be granted unless—
 - (i) the proposed programs have been approved; and
 - (ii) each proposed holder of the new authorities satisfies the capability criteria; and
 - (iii) the Minister is satisfied the applicant continues to satisfy any special criteria that applied for deciding the application for the original authority;¹²⁹ and
 - (iv) the Minister is satisfied the applicant has substantially complied with the original authority.
- (3) The matters that must be considered in making the division include the work program for the original authority, the proposed later work programs and the capability criteria.¹³⁰
- (4) The Minister may, as a condition of making the division, require the applicant to, under section 488,¹³¹ give security or additional security for all or any of the new authorities within a stated reasonable period.

127 Chapter 5, part 7 (Reporting)

128 See division 3, subdivision 5 (Approval of proposed later work programs).

129 See sections 35(2)(e)(iii) (Call for tenders) and 43 (Criteria for decisions).

130 See section 57 (Deciding whether to approve proposed program).

131 Section 488 (Power to require security for petroleum authority)

- (5) If the applicant does not comply with the requirement, the division may be refused.

106 Provisions of new authorities

- (1) Subject to this section, section 42 applies for the provisions of a new authority as if it were an authority to prospect granted under division 2.¹³²
- (2) However—
- (a) the term of each new authority must not end later than the end of the term of the original authority; and
 - (b) the new authorities must have the same relinquishment days as the original authority.
- (3) For the relinquishment condition for the new authorities—
- (a) the new authorities are taken to have originally taken effect when the original authority originally took effect; and
 - (b) the original notional sub-blocks of the original authority are divided rateably between the new authorities; and
 - (c) for working out previous relinquishments that are counted for the relinquishment condition for each new authority, the relinquishments previously counted for the relinquishment condition for the original authority are divided rateably between the new authorities.

107 Steps after deciding application

- (1) After the provisions of the new authorities are decided, the applicant and anyone else who will be a holder of any new authority, must be given notice of the relevant provisions and work program.¹³³
- (2) On refusal to make the division, the applicant must be given notice of the refusal.

132 Section 42 (Provisions of authority to prospect)
Division 2 (Obtaining authority to prospect)

133 For noncompliance action started, or that could have been taken, against the original authority holder, see section 792 (Provision for divided petroleum tenures).

Part 2 Petroleum leases

Division 1 Key authorised activities

Subdivision 1 General provisions

108 Operation of sdiv 1

- (1) This subdivision provides for the key authorised activities for a petroleum lease.¹³⁴
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) section 6; and
 - (b) subdivision 2; and
 - (c) chapter 3, part 5, division 1; and
 - (d) chapters 5 and 9;¹³⁵ and
 - (e) the mandatory and other conditions of the lease; and
 - (f) any exclusion or restriction provided for in the lease on the carrying out of the activities; and
 - (g) any other relevant Act or law.

134 For other authorised activities, see part 4 (Water rights for petroleum tenures), chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

135 Section 6 (Relationship with Mineral Resources Act)

Subdivision 2 (Provisions for coextensive natural underground reservoirs)

Chapter 3 (Provisions for coal seam gas), part 5 (Additional provisions for petroleum leases), division 1 (Restriction on authorised activities for particular petroleum leases)

Chapters 5 (Common petroleum authority provisions) and 9 (Safety)

109 Exploration, production and storage activities

- (1) The lease holder may carry out the following activities in the area of the lease—
 - (a) exploring for petroleum;
 - (b) subject to section 152¹³⁶—
 - (i) testing for petroleum production; and
 - (ii) evaluating the feasibility of petroleum production; and
 - (iii) testing natural underground reservoirs for petroleum storage;
 - (c) petroleum production;
 - (d) evaluating, developing and using natural underground reservoirs for petroleum storage or to store prescribed storage gases, including, for example, to store petroleum or prescribed storage gases for others.
- (2) However, the holder must not carry out any of the following—
 - (a) extraction or production of a gasification or retorting product from coal or oil shale by a chemical or thermal process;
 - (b) exploration for coal or oil shale to carry out extraction or production mentioned in paragraph (a).
- (3) The rights under subsection (1) may be exercised only by or for the holder.¹³⁷
- (4) The right to store petroleum or prescribed storage gases for others is subject to part 6.¹³⁸

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

137 See also section 800 (Restriction on petroleum tenure activities).

For who may exercise the rights for the holder, see section 563 (Who may carry out authorised activity for petroleum authority holder).

138 Part 6 (Third party storage access to natural underground reservoirs)

110 Petroleum pipeline and water pipeline construction and operation

- (1) The lease holder may construct and operate petroleum pipelines and water pipelines in the area of the lease.
- (2) However, if a petroleum pipeline or water pipeline extends beyond the area of the lease, subsection (1) applies only if the pipeline is completely within—
 - (a) the area of the lease; and
 - (b) the area of 1 or more other petroleum leases also held by the holder that are contiguous to the lease.¹³⁹
- (3) Also, if the pipeline is a water pipeline, the pipeline may only be operated to transport water for the carrying out of an authorised activity for the lease or a lease mentioned in subsection (2)(b), other than the authorised activity under section 186,¹⁴⁰ on an area mentioned in subsection (2).
- (4) Subsection (3) does not prevent the lease holder from constructing or operating a water pipeline if the holder can otherwise lawfully do so.
- (5) In this section—

petroleum pipeline means a pipeline as defined in section 16.¹⁴¹

water pipeline means—

- (a) a pipe, or system of pipes for transporting water; and
- (b) a thing connected to or associated with the pipeline that is necessary for its operation, including, for example, a thing mentioned in the examples to section 16(2)(b).

111 Petroleum processing

- (1) The lease holder may—

139 For who owns the pipeline, see chapter 5, part 6 (Ownership of pipelines, equipment and improvements).

140 Section 186 (Right to allow use of associated water for domestic or stock purposes)

141 Section 16 (What is a *pipeline*)

- (a) carry out the processing of petroleum in the area of the lease; and
 - (b) construct and operate a facility for the processing, storage or transport of petroleum in the area of the lease.¹⁴²
- (2) Subsection (1) applies for petroleum produced in or outside the area.
- (3) In this section—
- processing* of petroleum—
- (a) includes the separation of LPG only if the separation is incidental to other petroleum processing; and
 - (b) does not include refining petroleum.¹⁴³

112 Incidental activities

- (1) The lease holder may carry out an activity (an *incidental activity*) in the area of the lease if carrying out the activity is reasonably necessary for, or incidental to, another authorised activity for the lease.¹⁴⁴

Examples of incidental activities—

- 1 constructing or operating plant or works, including, for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
- 2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps
- 3 removing vegetation for, or for the safety of, exploration or testing under section 152(1)

142 For ownership of petroleum produced, see chapter 1, part 4 (Property in petroleum).

143 For activities mentioned in paragraphs (a) and (b), see chapter 4, part 3 (Petroleum facility licences).

144 See also part 10 (General provisions for petroleum wells, water supply bores and water observation bores), section 239 (Coordination arrangement overrides relevant leases), chapter 5 (Common petroleum authority provisions) and section 20(2) (What are the *conditions* of a petroleum authority).

- (2) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.¹⁴⁵

Subdivision 2 Provisions for coextensive natural underground reservoirs

113 Application of sdiv 2

This subdivision applies if a natural underground reservoir in the area of a petroleum lease extends to—

- (a) the area of an adjacent petroleum lease or coal or oil shale mining lease (an *adjacent lease*); or
- (b) if a person has applied for a petroleum lease, coal mining lease or oil shale mining lease that will, if granted, be an adjacent lease—the area of the proposed lease.¹⁴⁶

114 Coordination arrangement may be made about mining or production from reservoir

The petroleum lease holder and an adjacent lease holder, or proposed adjacent lease holder, may make a coordination arrangement that provides for the petroleum that can, under the Mineral Resources Act¹⁴⁷ or this Act, be produced from the reservoir from within the area of the petroleum lease and the adjacent lease, or proposed adjacent lease.¹⁴⁸

145 For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

146 See also section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs) of the 1923 Act.

147 See the Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas).

148 For the making of coordination arrangements, see part 8 (Petroleum activities coordination).

115 Restriction on carrying out particular authorised activities

- (1) The petroleum lease holder must not carry out a relevant activity for an adjacent lease or proposed adjacent lease unless—
 - (a) the adjacent lease holder, or the proposed adjacent lease holder, has consented in writing to the carrying out of the activity; or
 - (b) the activity is carried out under—
 - (i) a coordination arrangement mentioned in section 114; or
 - (ii) a decision of the tribunal under section 116.
- (2) However, if the adjacent lease was granted after the petroleum lease was granted and, when the adjacent lease was granted, the petroleum lease holder was carrying out the relevant activity, subsection (1) does not apply to the petroleum lease holder until the later of the following—
 - (a) 6 months after granting of the adjacent lease;
 - (b) if within the 6 months the petroleum lease holder applies to the tribunal under section 116—when the tribunal decides the application.
- (3) In this section—

relevant activity, for an adjacent lease or proposed adjacent lease, means—

 - (a) the production, under the petroleum lease, of petroleum that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or the proposed adjacent lease; or
 - (b) another authorised activity under the petroleum lease that physically adversely affects, or may physically adversely affect, the carrying out of authorised activities under an adjacent lease or the proposed adjacent lease.

116 Dispute resolution by tribunal

- (1) This section applies if—

- (a) an adjacent lease holder, or the proposed adjacent lease holder, has not consented in writing to the carrying out of a relevant activity under section 115; and
 - (b) the petroleum lease holder and the adjacent lease holder or proposed adjacent lease holder (the *parties*) have not made a coordination arrangement mentioned in section 114.
- (2) Either party may apply to the tribunal for it to decide—
- (a) the amount or proportion of petroleum mentioned in section 114 that, when produced, is owned by each party; and
 - (b) how the parties are to bear the costs of the production; and
 - (c) how the production is to be coordinated or monitored; and
- Example for paragraph (c)—*
- fixing a minimum distance from the boundary between the petroleum lease and the adjacent lease for petroleum production from the reservoir under the petroleum lease
- (d) remediation requirements, as prescribed under a regulation, in relation to the matters mentioned in section 115(3), definition *relevant activity*, paragraph (b).
- (3) If the adjacent lease was granted after the petroleum lease was granted, the decision may apply from the grant of the adjacent lease.
- (4) In making the decision, the tribunal—
- (a) must consider whether the safety of production activities on any adjoining mining or petroleum lease would be compromised; and
 - (b) must attempt to optimise petroleum production under the petroleum lease and mining or production under the adjacent lease in a way that maximises the benefit for all Queenslanders; and
 - (c) may make the decision without having regard to the issue of who would have, under another Act or law, otherwise owned the petroleum.

- (5) In considering the benefit to all Queenslanders, the tribunal must have regard to the public interest.

Division 2 Transition from authority to prospect to petroleum lease

Subdivision 1 Applying for petroleum lease

117 Who may apply

- (1) An authority to prospect holder or a 1923 Act ATP holder may apply for a petroleum lease over all or part of the area of the authority.¹⁴⁹
- (2) Also, a person other than the holder may apply for the lease—
- (a) jointly with the holder; or
 - (b) with the holder's consent.
- (3) An application under this section is an *ATP-related application*.

118 Requirements for making ATP-related application

An ATP-related application must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office of the department for lodging ATP-related applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) address the capability criteria;¹⁵⁰ and

149 See also section 168 (Area of petroleum lease).

150 For the criteria, see section 121(1)(e) (Requirements for grant).

- (d) include each of the following—
 - (i) a statement about why the size of the proposed area of the proposed petroleum lease is appropriate for authorised activities under the lease;
 - (ii) a statement about how and when the applicant proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the proposed lease are, or are likely to be, carried out;¹⁵¹
 - (iii) information about the matter under section 121(2) on which the applicant seeks to rely to establish the requirements for the grant;
 - (iv) a proposed development plan that complies with the initial development plan requirements;¹⁵² and
- (e) be accompanied by the fee prescribed under a regulation.

119 Continuing effect of authority to prospect for ATP-related application

- (1) This section applies if, other than for subsection (2), the relevant authority to prospect would, other than by cancellation under this Act, end before the ATP-related application is decided.
- (2) The authority continues in force in relation to the area the subject of the application until the earlier of the following to happen—
 - (a) the start of the term of the petroleum lease;
 - (b) a refusal of the ATP-related application takes effect;¹⁵³
 - (c) the application is withdrawn.
- (3) Despite any ending of the program period for the current work program for the authority—

151 See section 153 (Obligation to consult with particular owners and occupiers).

152 See division 4, subdivision 2 (Requirements for proposed initial development plans).

153 See section 125 (When refusal takes effect).

- (a) the authority is taken to have a work program; and
- (b) the holder may carry out any authorised activity for the authority.

Subdivision 2 Deciding ATP-related applications

120 Right to grant if requirements for grant met

- (1) Subject to sections 122 and 123A, the Minister must grant the petroleum lease if the Minister is satisfied the requirements mentioned in section 121 (the *requirements for grant*) have been complied with.
- (2) The lease must be refused if the Minister is not satisfied any requirement for grant, other than the requirement mentioned section 121(1)(c), has been complied with.
- (3) If the Minister is satisfied the requirements for grant, other than the requirement mentioned section 121(1)(c), have been complied with, the Minister may grant the lease.

121 Requirements for grant

- (1) The requirements for grant are each of the following—
 - (a) the applicant is an eligible person;
 - (b) the proposed area of the proposed petroleum lease—
 - (i) is appropriate for the authorised activities proposed to be carried out; and
 - (ii) if the authorised activities relate to petroleum production—contains the level of knowledge of reserves of petroleum, as prescribed under a regulation; and
 - (iii) if the authorised activities relate to petroleum storage—contains an adequately identified natural underground reservoir that is adequate for the proposed purpose of the lease;
 - (c) the conditions of the relevant authority to prospect have been substantially complied with;

- (d) the Minister has approved the applicant's proposed initial development plan for the lease;¹⁵⁴
 - (e) the Minister is of the opinion that the applicant is capable of carrying out authorised activities for the lease, having regard to the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to manage petroleum exploration and production;
 - (f) a relevant environmental authority for the lease has been issued;
 - (g) the applicant has established 1 of the matters mentioned in subsection (2);
 - (h) the applicant has paid the annual rent for the first year of the proposed lease;
 - (i) the applicant has given, under section 488, security for the lease.
- (2) For subsection (1)(g), the matters are any of the following—
- (a) commercial petroleum production in the area of the lease is, or is likely, within 2 years after the lease is to take effect;
 - (b) the applicant has—
 - (i) entered into a contract, coordination arrangement or other arrangement (a *relevant arrangement*) to supply petroleum produced from the area of the lease; and
 - (ii) lodged at the office required for lodging ATP-related applications a written declaration that the petroleum produced from the area of the lease will meet all or some of the petroleum required to be supplied under the relevant arrangement;
 - (c) the area of the lease is suitable for underground petroleum storage and the storage will, or is likely to, start before the later of the following to happen—

154 For approval of development plans, see division 4, subdivision 2 (Requirements for proposed initial development plans).

- (i) the end of 5 years after the lease is to take effect;
 - (ii) the end of the plan period for the applicant's proposed development plan for the lease.
- (3) The matters mentioned in subsection (1)(e) are the *capability criteria*.
- (4) A person *satisfies* the capability criteria if the Minister forms the opinion about the person mentioned in subsection (1)(e).

122 Exception for particular relevant arrangements

Despite section 120, the application may be refused if the Minister—

- (a) is not satisfied of a matter under section 121(2)(a) or (c); and
- (b) is satisfied the applicant has entered into a relevant arrangement, but the Minister reasonably believes—
 - (i) the arrangement is not an arms-length commercial transaction; or
 - (ii) supply under the arrangement is unlikely to be carried out.

123 Provisions of petroleum lease

- (1) Each petroleum lease must state its term and area.¹⁵⁵
- (2) The term must—
 - (a) be for at least the plan period for the initial development plan for the lease; and
 - (b) end no later than 30 years after the lease takes effect.
- (3) The lease may also state—
 - (a) conditions or other provisions of the lease, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for petroleum leases; or

¹⁵⁵ See section 168 (Area of petroleum lease).

- (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease;¹⁵⁶ and
 - (b) a day for the lease to take effect; and
 - (c) a day by which petroleum production under the lease is to start (the *production commencement day*).
- (4) However, the provisions of the lease may exclude or restrict the carrying out of an authorised activity for the lease.
- (5) The day of effect must not be before the day the lease is granted.
- (6) If no day of effect is decided, the lease takes effect on the day it is granted.
- (7) The production commencement day may be more than 2 years after the day of effect only if the Minister is satisfied the holder has entered into a relevant arrangement.
- (8) The matters that must be considered in deciding the provisions of the lease include the development plan criteria and capability criteria.
- (9) This section applies subject to section 123A.

123A Provisions about grant and conditions of petroleum lease for significant project

- (1) This section applies if a petroleum lease or proposed petroleum lease is for a significant project.
- (2) The Minister must not grant the lease until the Minister has been given the Coordinator-General's report for the project.
- (3) Any Coordinator-General's conditions for the lease must be stated in the lease.
- (4) Any other condition of the lease stated under section 123 must not be inconsistent with the Coordinator-General's conditions.
- (5) If a mandatory condition for petroleum leases conflicts with any of the Coordinator-General's conditions, the

¹⁵⁶ See also section 169 (Minister's power to decide excluded land).

Coordinator-General's condition prevails to the extent of the inconsistency.

124 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.¹⁵⁷

125 When refusal takes effect

A refusal of the application does not take effect until the end of the appeal period for the decision to refuse.¹⁵⁸

Division 3 Obtaining petroleum lease by competitive tender

Subdivision 1 Preliminary

126 Operation of div 3

- (1) This division provides for a process for the granting of petroleum leases by competitive tender.
- (2) To remove any doubt, it is declared that a petroleum lease can only be granted under this division, division 2 or division 7, subdivision 2.¹⁵⁹

Subdivision 2 Calls for tenders

127 Call for tenders

- (1) The Minister may publish a notice (a *call for tenders*) inviting tenders for a petroleum lease.

157 See however section 829 (Restriction on tribunal's powers for decision not to grant petroleum lease).

158 See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

159 Division 7, subdivision 2 (Dividing petroleum leases)

- (2) The call must state—
- (a) the proposed area of the lease; and
 - (b) that, under section 169, particular land may be excluded land for the lease;¹⁶⁰ and
 - (c) the day and time by which tenders in response to it must be made (the *closing time* for the call); and
 - (d) that the tenders must be lodged before the closing time for the call at the place stated in the approved form for making the tender; and
 - (e) that details about each of the following are available at a stated place—
 - (i) any proposed conditions of the lease, other than mandatory conditions for petroleum leases, that are likely to impact significantly on exploration or production in the proposed area of the lease;
 - (ii) the required plan period for the initial development plan for the lease;
 - (iii) any criteria (*special criteria*), other than the development plan criteria and capability criteria, proposed to be used to decide whether to grant the lease or to decide its provisions;¹⁶¹
 - (iv) the weight proposed to be given to each development plan criteria, capability criteria and special criteria.
- (3) The call may state other relevant matters, including, for example, matters relevant to the development plan, capability or special criteria.
- (4) The area of the proposed lease must comply with section 168.¹⁶²

160 Section 169 (Minister's power to decide excluded land)

See also section 170 (Minister may add excluded land).

161 For the capability criteria and development plan criteria, see sections 121 (Requirements for grant) and 141 (Criteria).

162 Section 168 (Area of petroleum lease)

- (5) Subsection (2)(e)(i) does not limit the power under section 133¹⁶³ to decide conditions of the lease if it is granted.

128 Right to tender

- (1) A person¹⁶⁴ may tender for a proposed petroleum lease the subject of a call for tenders.
- (2) However, the tender—
- (a) must comply with the requirements under section 118¹⁶⁵ for making an ATP-related application; and
 - (b) be lodged at—
 - (i) the office or place for lodging tenders for proposed petroleum leases, as stated in a gazette notice by the chief executive; or
 - (ii) if no office or place is gazetted under subparagraph (i)—the office or place stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) can not be made—
 - (i) after the closing time for the call; or
 - (ii) for only part of the area of the proposed petroleum lease.

129 Right to terminate call for tenders

- (1) The Minister may, by gazette notice, terminate a call for tenders at any time before deciding to grant a petroleum lease to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.

163 Section 133 (Provisions of petroleum lease)

164 See however section 132(2) (Deciding whether to grant petroleum lease).

165 Section 118 (Requirements for making ATP-related application)

- (3) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the termination.

Subdivision 3 Deciding tenders

130 Process for deciding tenders

Subject to section 134,¹⁶⁶ any process the Minister considers appropriate may be used to decide a call for tenders, including, for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

131 Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for tenders to—
- (a) pay any amounts necessarily incurred, or to be incurred, to enable the petroleum lease to be granted; and
- Example—*
- amounts required to comply with the Commonwealth Native Title Act, part 2, division 3, subdivision P¹⁶⁷
- (b) to do all or any of the following within a stated reasonable period—
- (i) pay the annual rent for the first year of the lease;
- (ii) give security for the lease, as required under section 488.¹⁶⁸
- (2) If a preferred tenderer does not—
- (a) comply with a requirement under subsection (1); or
- (b) do all things reasonably necessary to allow a petroleum lease to be granted to the tenderer;

166 Section 134 (Criteria for decisions)

167 Commonwealth Native Title Act, part 2, division 3, subdivision P (Right to negotiate)

168 Section 488 (Power to require security for petroleum authority)

the Minister may appoint another tenderer to be the preferred tenderer.

132 Deciding whether to grant petroleum lease

- (1) The Minister may, after the closing time for the call for tenders—
 - (a) grant a petroleum lease to 1 tenderer; or
 - (b) refuse to grant any petroleum lease.
- (2) However—
 - (a) before deciding to grant the lease, the Minister must decide whether to approve the applicant's proposed initial development plan for the lease;¹⁶⁹ and
 - (b) the Minister can not grant the lease unless—
 - (i) the tenderer is an eligible person; and
 - (ii) the proposed plan has been approved; and
 - (iii) the Minister is satisfied the requirements for grant, other than the requirement mentioned in section 121(1)(c),¹⁷⁰ have been complied with; and
 - (iv) a relevant environmental authority for the lease has been issued.
- (3) This section applies subject to section 123A.¹⁷¹

133 Provisions of petroleum lease

Sections 123 and 123A¹⁷² apply to a petroleum lease granted under this division as if the tender for the lease was an ATP-related application.

169 See division 4, subdivision 3 (Criteria for deciding whether to approve proposed initial development plans).

170 Section 121 (Requirements for grant)

171 Section 123A (Provisions about grant and conditions of petroleum lease for significant project)

172 Sections 123 (Provisions of petroleum lease) and 123A (Provisions about grant and conditions of petroleum lease for significant project)

134 Criteria for decisions

- (1) The matters that must be considered in deciding whether to grant a petroleum lease or its provisions include the development plan criteria, capability criteria and any special criteria.
- (2) The Minister may give the weight to each of the development plan, capability and special criteria that the Minister considers appropriate in the circumstances.

135 Notice to unsuccessful tenderers

After a call for tenders has been decided, each tenderer not granted the petroleum lease must be given notice of the decision.¹⁷³

Division 4 Development plans**Subdivision 1 Function and purpose of development plan****136 Function and purpose**

- (1) The development plan for a petroleum lease or proposed petroleum lease (the *relevant lease*) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.
- (2) The development plan may—
 - (a) also relate to another petroleum lease or proposed petroleum lease if the other lease or proposed lease relates to the relevant lease; and
 - (b) provide that when the plan is approved it will replace any development plan for the other lease.
- (3) The purposes of giving the information are to—

¹⁷³ See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

- (a) allow resource management decisions to be made; and
- (b) ensure appropriate development of the lease.

Subdivision 2 Requirements for proposed initial development plans

137 Operation of sdiv 2

This subdivision provides for requirements (the *initial development plan requirements*) for a proposed initial development plan for a proposed petroleum lease.¹⁷⁴

138 General requirements

- (1) The proposed plan must provide for each of the following—
 - (a) an overview of the activities proposed to be carried out under the lease or proposed lease during all of its term;
 - (b) for each year of the plan period—
 - (i) the nature and extent of activities proposed to be carried out under the lease or proposed lease during the year; and
 - (ii) where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) for each natural underground reservoir in the area of the lease of which the applicant is aware, each of the following—
 - (i) the location and a verifiable estimate of the amount of petroleum in the reservoir;
 - (ii) the standards and procedures used to make the estimate;
 - (iii) the rate and amount of production proposed from the reservoir;

¹⁷⁴ For additional requirements for development plans for coal seam gas, see chapter 3, part 6 (Additional provisions for development plans).

- (iv) approximately when the proposed production is to start;
 - (v) a schedule for the proposed production during the plan period;
 - (d) maps that show the matters mentioned in paragraphs (b)(i) and (ii) and (c)(i);
 - (e) any other information relevant to the development plan criteria;¹⁷⁵
 - (f) reasons why the plan is considered appropriate;
 - (g) another matter prescribed under a regulation.
- (2) A regulation may impose requirements about the form of the development plan.
- (3) In this section—
- year*, of the plan period, means—
- (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and
 - (b) each subsequent period of 12 months or less during the plan period, starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

139 Plan period

- (1) The proposed plan must state its period.
- (2) If the proposed plan relates to a tender, the period must be the same as the required period under the relevant call for tenders.¹⁷⁶
- (3) If the proposed plan relates to an ATP-related application, the period must not be longer than—

¹⁷⁵ See section 141 (Criteria).

¹⁷⁶ See section 127 (Call for tenders).

- (a) if the term sought for the lease is less than 5 years from the granting of the lease—the term of the lease; or
- (b) if the term sought for the lease is 5 years or more from the start of the term—5 years from the start of the term.

140 Storage

If natural underground reservoir storage is proposed, the proposed plan must include the following—

- (a) a program for evaluating, developing and using the reservoir;
- (b) a verifiable estimate of its storage capacity;
- (c) the standards and procedures used to make the estimate;
- (d) a schedule for the storage injection and withdrawal;
- (e) another matter prescribed under a regulation.

Subdivision 3 Criteria for deciding whether to approve proposed initial development plans

Note—

For the requirement for approval of an initial development plan, see sections 120 and 132.¹⁷⁷

141 Criteria

The matters that must be considered in deciding whether to approve a proposed development plan include each of the following (the *development plan criteria*)—

- (a) the potential of the area of the proposed petroleum lease for petroleum production and related activities;
- (b) the nature and extent of the activities;

¹⁷⁷ Sections 120 (Right to grant if requirements for grant met) and 132 (Deciding whether to grant petroleum lease)

- (c) when and where the activities are proposed to be carried out;
- (d) whether petroleum production sought under the lease will be optimised in the best interests of the State, having regard to the public interest.

Subdivision 4 Requirements for proposed later development plans

142 Operation of sdiv 4

This subdivision provides for requirements (the *later development plan requirements*) for a proposed later development plan for a petroleum lease.¹⁷⁸

143 General requirements

- (1) The proposed plan must—
 - (a) comply with the initial development plan requirements, as if the reference in section 139(3)¹⁷⁹ to the term sought for the lease were a reference to the remaining term, or the renewed term, of the lease; and
 - (b) highlight any significant changes from the current development plan for the lease; and
 - (c) if the current development plan has not been complied with—state the details of, and the reasons for, each noncompliance.
- (2) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan for the lease, the proposed plan must also state reasons for the change.

¹⁷⁸ For the requirements to lodge a proposed later development plan, see sections 79 (Obligation to lodge proposed later work program), 100 (Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

¹⁷⁹ Section 139 (Plan period)

- (3) Also, for a significant change that is a cessation or reduction of petroleum production, the proposed plan must include an evaluation of—
- (a) petroleum production potential in the area of the lease; and
 - (b) market opportunities for petroleum production in the area of the lease.

144 Later development plans for proposed new leases

Proposed later development plans for an application under division 7, subdivision 2,¹⁸⁰ to divide a petroleum lease must have a combined effect that is at least the effect of the development plan for the original lease.

Subdivision 5 Approval of proposed later development plans

145 Application of sdiv 5

This subdivision applies if—

- (a) under this Act, a proposed later development plan is lodged for approval;¹⁸¹ or
- (b) the Minister is considering an application under section 235¹⁸² for approval of a proposed coordination arrangement.

180 Division 7, subdivision 2 (Dividing petroleum leases)

181 For requirements to lodge a proposed later development plan, see sections 100 (Minister may add excluded land), 159 (Obligation to lodge proposed later development plan), 170 (Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken), division 6 (Renewals) and division 7, subdivision 2 (Dividing petroleum leases).

182 Section 235 (Applying for Ministerial approval of proposed coordination arrangement)

146 Petroleum lease taken to have development plan until decision on whether to approve proposed development plan

- (1) This section applies until—
 - (a) if the proposed plan is approved—the holder is given notice of the approval; or
 - (b) if approval of the proposed plan is refused—when the refusal takes effect.¹⁸³
- (2) Despite the ending of the plan period for the current development plan for the petroleum lease—
 - (a) the lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the lease.

147 Deciding whether to approve proposed plan

- (1) The Minister may approve or refuse to approve the proposed plan.
- (2) The matters that must be considered in deciding whether to approve the proposed plan include each of the following—
 - (a) the development plan criteria;¹⁸⁴
 - (b) the extent to which the current development plan for the lease has been complied with;
 - (c) if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production—
 - (i) whether the cessation or reduction is reasonable; and
 - (ii) whether the petroleum lease holder has taken all reasonable steps to prevent the cessation or reduction.

183 For when the decision takes effect, see section 149 (Steps after, and taking effect of, decision).

184 See section 141 (Criteria).

- (3) Also, if the lease was granted in response to a tender, any other development plan proposed by other tenderers for the lease must be taken into account.
- (4) However, subsection (3) applies only to the extent the other plan includes the period of the proposed plan.

148 Power to require relinquishment

- (1) This section applies if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production.
- (2) The Minister may approve the proposed plan, but—
 - (a) decide (a *deferral decision*)—
 - (i) to defer the taking of effect of the approval until the petroleum lease holder relinquishes, by a notice lodged at the following office (the *relevant office*), a stated part or percentage of the area of the lease on or before a stated day—
 - (A) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (B) if no office is gazetted under subparagraph (A)—the office of the chief executive; and
 - (ii) that the decision to approve the proposed plan is replaced by a decision not to approve it if the notice is not lodged on or before the stated day; or
 - (b) impose a condition on the lease requiring its holder to relinquish, by a notice lodged at the relevant office, a stated part or percentage of the area of the lease at stated times or intervals.
- (3) The public interest must be considered before making a deferral decision or imposing the condition.
- (4) A relinquishment under subsection (2)(a)(i) takes effect on the day after the notice is lodged.

149 Steps after, and taking effect of, decision

- (1) On approval of the proposed later development plan, the holder must be given notice of the approval.
- (2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.
- (3) The holder must be given an information notice about—
 - (a) a decision to refuse to approve the proposed plan; or
 - (b) a decision, under section 148, to make a deferral decision or impose a condition.
- (4) A refusal does not take effect until the end of the appeal period for the decision to refuse.

Division 5 Key mandatory conditions for petroleum leases**150 Operation of div 5**

This division provides for particular mandatory conditions for petroleum leases.

Note—

- 1 The following provisions also impose mandatory conditions on petroleum leases—
 - division 1
 - parts 4, 9 and 10
 - sections 181 and 202
 - part 6, division 2, subdivision 2
 - chapter 3, part 5, division 2

- chapter 5.¹⁸⁵

2 For what is a mandatory condition, see section 20(2).¹⁸⁶

151 Restriction on flaring or venting

- (1) A petroleum lease holder must not flare or vent petroleum in a gaseous state produced under the lease unless the flaring or venting is authorised under this section.
- (2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—
 - (a) commercially under the lease; or
 - (b) for an authorised activity for the lease.
- (3) Venting the gas is authorised if—
 - (a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or
 - (b) flaring it is not technically practicable.
- (4) Venting the gas is also authorised if—
 - (a) it is being used, or is proposed to be used, under a greenhouse abatement scheme; and
 - (b) if subsection (1) were to apply, the direct or indirect benefit the lease holder would otherwise obtain because of the use of the gas under the scheme would be reduced.
- (5) In this section—

185 Division 1 (Key authorised activities)

Parts 4 (Water rights for petroleum tenures), 9 (Existing Water Act bores) and 10 (General provisions for petroleum wells, water supply bores and water observation bores)

Sections 181 and 202 (Additional condition of relevant petroleum tenure)

Part 6, division 2, subdivision 2 (Negotiation obligations of petroleum lease holders and existing users)

Chapter 3 (Provisions for coal seam gas), part 5 (Additional provisions for petroleum leases), division 2 (Conditions)

Chapter 5 (Common petroleum authority provisions)

186 Section 20 (What are the *conditions* of a petroleum authority)

greenhouse abatement scheme means—

- (a) the *Electricity Supply Act 1995* (NSW), part 8A;¹⁸⁷ or
- (b) the Commonwealth's Greenhouse Gas Abatement Program; or
- (c) another scheme about the abatement of greenhouse gases prescribed under a regulation.

152 Permitted period for production or storage testing

- (1) Subject to section 151, a petroleum lease holder may carry out—
 - (a) testing (**production testing**) for petroleum production from each petroleum well in the area of the lease; and
 - (b) testing each natural underground reservoir in the area for the storage of petroleum or a prescribed storage gas.
- (2) However, production testing may be carried out for more than 30 days from when the testing on the petroleum well first starts only with the Minister's approval.
- (3) The approval may be given on the conditions the Minister considers appropriate.

153 Obligation to consult with particular owners and occupiers

- (1) A petroleum lease holder must consult, or use reasonable endeavours to consult, with each owner and occupier of private or public land on which authorised activities for the lease are, or are likely to be, carried out.
- (2) The consultation must be about the carrying out of authorised activities for the lease (including, for example, crossing access land for the lease) to the extent they relate to the owners and occupiers.

187 See, in particular, the *Greenhouse Gas Benchmark Rule (Generation) No. 2 of 2003*, paragraph 10.1 (Total greenhouse gas emissions), made under the *Electricity Supply Act 1995* (NSW), part 8A, section 97K (Greenhouse gas benchmark rules).

- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the lease; or
 - (b) if the lease does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, part 2 or 3.¹⁸⁸
- (5) A failure to comply with this section does not prevent authorised activities for the lease from being carried out.

154 Obligation to commence production

- (1) A petroleum lease holder must start petroleum production under the lease on or before the later of the following—
 - (a) the end of 2 years after the lease takes effect;
 - (b) any production commencement day for the lease.
- (2) However, subsection (1) does not apply if the development plan for the lease only provides for natural underground reservoir storage.

155 Petroleum royalty and annual rent

- (1) A petroleum lease holder must pay the State—
 - (a) petroleum royalty as required under chapter 6;¹⁸⁹ and
 - (b) the annual rent, as prescribed under a regulation.¹⁹⁰
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

188 Chapter 5, part 2 (Private land) or 3 (Public land)

189 Chapter 6 (Petroleum royalty)

190 See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

156 Civil penalty for nonpayment of annual rent

- (1) If a petroleum lease holder does not pay the annual rent as required under section 155, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

157 Requirement to have development plan

The holder of a petroleum lease must have a development plan for the lease.

Note—

- 1 The only development plan for a petroleum lease is its current initial or later development plan as approved under division 4.
- 2 For the requirements to lodge a proposed later development plan see sections 159, 170, 372 and 790.
- 3 For approval of proposed later development plans see division 4, subdivision 5.¹⁹¹

158 Compliance with development plan

- (1) A petroleum lease holder must comply with the development plan for the lease.¹⁹²
- (2) However, subsection (1) does not apply to a failure to comply with the plan that is an act or omission by the holder to ensure compliance with an insufficiency of supply direction under the *Gas Supply Act 2003*.

191 Sections 159 (Obligation to lodge proposed later development plan), 170 (Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken)

Division 4, subdivision 5 (Approval of proposed later development plans)

192 See also section 146 (Petroleum lease taken to have development plan until decision on whether to approve proposed development plan).

159 Obligation to lodge proposed later development plan

- (1) This section imposes an obligation on a petroleum lease holder to lodge a proposed later development plan for the lease.

Note—

- 1 For approval of the proposed plan, see division 4, subdivision 5.¹⁹³
 - 2 If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 162(1).¹⁹⁴
- (2) The obligation is complied with only if the proposed later development plan—
- (a) is lodged at—
 - (i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later development plan requirements;¹⁹⁵ and
 - (c) is accompanied by the relevant fee.
- (3) A proposed later development plan must be lodged—
- (a) at least 40, but no more than 80, business days before the end of the plan period for its current development plan (the *current plan period*); or
 - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease.
- (4) However, if before the end of the current plan period, a decision is made not to approve a proposed later development plan lodged under subsection (3), the holder may, within the period, lodge another proposed later development plan.

193 Division 4, subdivision 5 (Approval of proposed later development plans)

194 Section 162 (Requirements for making renewal application)

195 See division 4, subdivision 4 (Requirements for proposed later development plans).

- (5) If the holder does not lodge any proposed later development plan before the end of the current plan period or if subsection (4) applies and the holder does not lodge another proposed later development plan within the current plan period—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—
- relevant fee***, for the lodgment of the proposed plan, means—
- (a) if the proposed plan is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the time required under subsection (3) and—
 - (i) if it is lodged under subsection (4)—nil; or
 - (ii) if it is not lodged under subsection (4) and it is lodged before the end of the current plan period—an amount that is 10 times the prescribed fee; or
 - (iii) it is not lodged under subsection (4) and it is lodged after the end of the current plan period—an amount that is 20 times the prescribed fee.

160 Consequence of failure to comply with notice to lodge proposed later development plan

- (1) If a petroleum lease holder does not comply with a requirement under section 159(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

Division 6 Renewals

161 Conditions for renewal application

- (1) A petroleum lease holder may apply to renew the lease only if none of the following is outstanding—
 - (a) annual rent for the lease;
 - (b) a civil penalty under section 156 for nonpayment of annual rent;
 - (c) interest payable under section 588¹⁹⁶ on annual rent or a civil penalty;
 - (d) petroleum royalty for petroleum produced under the lease and any unpaid petroleum royalty interest on it;
 - (e) security for the lease, as required under section 488.¹⁹⁷
- (2) Also, the application can not be made—
 - (a) more than 80 business days before the end of the term of the lease; or
 - (b) after the lease has ended.
- (3) However, the Minister may allow the application to be made up to 2 years before the end of the term of the lease if the Minister is of the opinion that—
 - (a) a storage agreement is in force for the lease or the holder has negotiated, or is negotiating, a proposed storage agreement for the lease; and
 - (b) the agreement or proposed agreement will be in force after the proposed renewed lease takes effect.

162 Requirements for making renewal application

- (1) The application must—
 - (a) be in the approved form; and

196 Section 588 (Interest on amounts owing to the State other than for petroleum royalty)

197 Section 488 (Power to require security for petroleum authority)

- (b) be lodged at—
 - (i) the office of the department for lodging petroleum lease renewal applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state whether or not the development plan for the petroleum lease has been complied with; and
 - (d) if the development plan has not been complied with—state details of, and the reasons for, each noncompliance; and
 - (e) include a proposed later development plan for the renewed lease; and
 - (f) include a statement about how and when the applicant proposes to consult with, and keep informed, each owner and occupier of private or public land on which authorised activities for the renewed lease are, or are likely to be, carried out;¹⁹⁸ and
 - (g) state whether or not the applicant has complied with chapter 5, part 7,¹⁹⁹ for reports required to be lodged in relation to the lease; and
 - (h) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 40 business days before the end of the term of the lease—an amount that is 10 times the application fee.
- (2) The proposed later development plan must comply with the later development plan requirements.²⁰⁰

198 See section 153 (Obligation to consult with particular owners and occupiers).

199 Chapter 5, part 7 (Reporting)

200 See division 4, subdivision 4 (Requirements for proposed later development plans).
For approval of the proposed plan, see division 4, subdivision 5 (Approval of proposed later development plans).

163 Continuing effect of lease for renewal application

- (1) This section applies if the term of the petroleum lease ends before the application is decided.
- (2) Despite the ending of the term, the lease continues in force until the earlier of the following to happen—
 - (a) the start of any renewed term of the lease;
 - (b) a refusal of the application takes effect;²⁰¹
 - (c) the application is withdrawn;
 - (d) the lease is cancelled under this Act.²⁰²
- (3) If the lease is renewed, subsection (2) is taken never to have applied for the period from the end of the term of the lease being renewed, as stated in that lease.²⁰³

164 Deciding application

- (1) The Minister may grant or refuse the renewal.
- (2) However—
 - (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later development plan for the renewed petroleum lease;²⁰⁴ and
 - (b) the renewal can not be granted unless—
 - (i) the proposed plan has been approved; and
 - (ii) the Minister considers the applicant satisfies the capability criteria and has substantially complied with the lease being renewed; and
 - (iii) a relevant environmental authority for the renewed lease has been issued.

201 See section 167 (When refusal takes effect).

202 See also section 146 (Petroleum lease taken to have development plan until decision on whether to approve proposed development plan).

203 See section 165(4) (Provisions and term of renewed lease).

204 See division 4, subdivision 5 (Approval of proposed later development plans).

- (3) Also, the Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the renewed lease;
 - (b) give, under section 488,²⁰⁵ security for the renewed lease.
- (4) If the applicant does not comply with the requirement, the application may be refused.

165 Provisions and term of renewed lease

- (1) Subject to this section, section 123²⁰⁶ applies to the renewed petroleum lease as if it were a petroleum lease granted under division 2.²⁰⁷
- (2) The conditions or other provisions of the renewed lease may be different from the conditions or other provisions of the petroleum lease being renewed.
- (3) The area of the renewed lease must not be more than the area of the petroleum lease being renewed immediately before the renewed lease is to take effect.
- (4) If the renewal is decided before the end of the term of the petroleum lease being renewed as stated in that lease (the *previous term*), the term of the renewed lease is taken to start from the end of the previous term.
- (5) If the renewed lease is decided after the previous term, the term of the renewed lease starts immediately after the end of the previous term, but—
 - (a) the conditions of the renewed lease do not start until the lease holder is given notice of them; and
 - (b) until the notice is given, the conditions of the petroleum lease being renewed apply to the renewed lease as if they were its conditions.

205 Section 488 (Power to require security for petroleum authority)

206 Section 123 (Provisions of petroleum lease)

207 Division 2 (Transition from authority to prospect to petroleum lease)

- (6) The term of the renewed lease must not be more than—
- (a) if it has not been previously renewed—the original term of the lease; or
 - (b) if it has been previously renewed—its last renewed term.

166 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

167 When refusal takes effect

A refusal of the application does not take effect until the end of the appeal period for the decision to refuse.²⁰⁸

Division 7 Miscellaneous provisions

Subdivision 1 Area of petroleum lease

168 Area of petroleum lease

- (1) This section provides for the area of a petroleum lease.
- (2) The area does not include excluded land for the lease.
- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
 - (a) land in the area of another petroleum tenure, other than land that will, under section 101,²⁰⁹ cease to be included in the area of an authority to prospect on the grant of the lease;
 - (b) excluded land for another petroleum tenure;

208 See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

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

- (c) land in the area of a 1923 Act petroleum tenure;
 - (d) excluded land for a 1923 Act petroleum tenure;
 - (e) land that a regulation prescribes as land over which a petroleum lease can not be granted.
- (5) To remove any doubt, it is declared that if land within any sub-block that the lease states is included in the area of the lease ceases to be unavailable land, the cessation itself does not cause the land to be within the area of the lease.
- (6) For subsection (5), if the lease states that its area includes land within a block without including or excluding any particular sub-block, the reference to the block is a reference to all sub-blocks within the block.
- (7) The area may include a part of a sub-block only if the part is all areas within the sub-block that are left after taking away all unavailable land within the sub-block (a *residual sub-block*).
- (8) The area must be no more than 75 sub-blocks or residual sub-blocks, in any combination.

169 Minister's power to decide excluded land

- (1) The Minister may decide excluded land for a petroleum lease or proposed petroleum lease.²¹⁰
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
- (a) grant or renew the lease; or
 - (b) approve any later development plan for the lease.
- (3) However, excluded land—
- (a) must be within any sub-block that the lease states is included in the area of the lease; and
 - (b) can not be a whole sub-block.
- (4) For subsection (3)(a), if the instrument—

210 See sections 123 (Provisions of petroleum lease), 133 (Provisions of petroleum lease) and 165 (Provisions and term of renewed lease).

- (a) states that the lease's area includes land within a block; but
- (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.

- (5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for a petroleum lease if, for any reason, the sub-block in which the land is located ceases to be in the area of the lease.

170 Minister may add excluded land

- (1) The Minister may amend a petroleum lease by adding excluded land for the lease to its area only if—
 - (a) the lease as amended complies with section 168; and
 - (b) the lease holder consents.
- (2) If land mentioned in subsection (1) is added to the area of the lease, the land ceases to be excluded land for the lease.
- (3) The Minister may amend the provisions of the lease in a way that reflects the inclusion of the excluded land.²¹¹
- (4) Also, the Minister may give the lease holder a notice—
 - (a) withdrawing, from a stated day, the approval of the development plan for the lease; and
 - (b) directing the holder to lodge at the relevant office a proposed later development plan for the lease that—
 - (i) complies with the later development plan requirements; and

²¹¹ See also section 488 (Power to require security for petroleum authority).

- (ii) changes the development plan for the lease to reflect the inclusion of the excluded land.
- (5) The amended provisions of the lease or the proposed later development plan must not be—
 - (a) inconsistent with the mandatory conditions for petroleum leases; or
 - (b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease.
- (6) In this section—

relevant office means—

 - (a) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Subdivision 2 Dividing petroleum leases

171 Applying to divide

- (1) The holder of a petroleum lease (the *original lease*) may apply to divide it into 2 or more petroleum leases (the *new leases*).
- (2) However, the holder may apply for a new lease to be granted to another person only if the other person—
 - (a) agrees to the proposed grant; and
 - (b) is an eligible person.
- (3) Despite subsections (1) and (2), the holder can not make the application if any of the following is outstanding—
 - (a) annual rent for the original lease;
 - (b) a civil penalty under section 156 for nonpayment of annual rent;

- (c) interest payable under section 588²¹² on annual rent or a civil penalty;
- (d) petroleum royalty payable for petroleum produced under the original lease and any unpaid petroleum royalty interest on it;
- (e) security for the original lease, as required under section 488.²¹³

172 Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office of the department for lodging applications to divide a petroleum lease, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state whether or not the development plan for the original lease has been complied with; and
- (d) if the development plan for the original lease has not been complied with—state details of, and the reasons for, each noncompliance; and
- (e) include a proposed later development plan for each proposed new lease;²¹⁴ and
- (f) address the capability criteria for each proposed holder of the new leases; and

212 Section 588 (Interest on amounts owing to the State other than for petroleum royalty)

213 Section 488 (Power to require security for petroleum authority)

214 For an additional requirement for the proposed development plans, see section 144 (Later development plans for proposed new leases).

- (g) state whether or not the holder has complied with chapter 5, part 7,²¹⁵ for reports required to be lodged in relation to the original lease; and
- (h) be accompanied by the fee prescribed under a regulation.

173 Deciding application

- (1) The Minister may make or refuse to make the division.
- (2) However—
 - (a) before deciding to make the division, the Minister must decide whether to approve the proposed later development plans for the new leases;²¹⁶ and
 - (b) the division can not be made unless—
 - (i) the proposed plans have been approved; and
 - (ii) the applicant has established 1 of the matters mentioned in section 121(2) for each proposed lease;²¹⁷ and
 - (iii) each proposed holder of the new leases satisfies the capability criteria; and
 - (iv) the Minister is satisfied the applicant continues to satisfy any special criteria that applied for deciding the application for the original lease;²¹⁸ and
 - (v) the Minister is satisfied the applicant has substantially complied with the original lease.
- (3) The matters that may be considered in making the division include the development plan for the original lease, the proposed later development plans and the capability criteria.
- (4) The Minister may, as a condition of making the division, require the applicant to, under section 488,²¹⁹ give security or

215 Chapter 5, part 7 (Reporting)

216 See division 4, subdivision 5 (Approval of proposed later development plans).

217 Section 121 (Requirements for grant)

218 See sections 35(2)(e)(iii) (Call for tenders) and 43 (Criteria for decisions).

219 Section 488 (Power to require security for petroleum authority)

additional security for all or any of the new leases within a stated reasonable period.

- (5) If the applicant does not comply with the requirement, the division may be refused.

174 Provisions of new leases

- (1) Subject to this section, section 123 applies for the provisions of a new lease as if it were a petroleum lease granted under division 2.²²⁰
- (2) However, the term of each new lease must not end later than the end of the term of the original lease.
- (3) For any relinquishment condition for the new leases—
 - (a) the new leases are taken to have originally taken effect when the original lease originally took effect; and
 - (b) land within any sub-block that the original lease states is included in the area of the original lease is divided rateably between the new leases; and
 - (c) for working out previous relinquishments that are counted for the relinquishment condition for each new lease, the relinquishments previously counted for the relinquishment condition for the original lease are divided rateably between the new leases.

175 Steps after deciding application

- (1) After the provisions of the new leases are decided, the applicant and anyone else who will be a holder of any new lease, must be given notice of the relevant provisions and development plans.²²¹
- (2) On refusal to make the division, the applicant must be given notice of the refusal.

220 Section 123 (Provisions of petroleum lease)

Division 2 (Transition from authority to prospect to petroleum lease)

221 For noncompliance action started, or that could have been taken, against the original lease holder, see section 792 (Provision for divided petroleum tenures).

Part 3 Data acquisition authorities

Division 1 Obtaining data acquisition authority

176 Who may apply for data acquisition authority

- (1) A petroleum tenure holder may apply for a data acquisition authority to allow the applicant to carry out the following activities (*data acquisition activities*)—
 - (a) geophysical surveys on land (the *data acquisition land*) contiguous to land in the area of the tenure to enable the applicant to acquire data relevant to authorised activities under the tenure;
 - (b) the entering of the data acquisition land to carry out the geophysical surveys.
- (2) However, the application can not be made or granted for land in the area of another petroleum tenure.

177 Requirements for making application

The application must be—

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

178 Deciding application for data acquisition authority

- (1) The Minister may grant or refuse the data acquisition authority.

- (2) However, the data acquisition authority can not be granted unless a relevant environmental authority for the data acquisition authority has been issued.
- (3) The authority must state its term and the area subject to the authority.
- (4) The term must end no later than 1 year after the authority takes effect.
- (5) The authority may also state—
 - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
 - (i) inconsistent with section 180, 181 or 184A or any other mandatory condition for data acquisition authorities; or

Note—

Chapter 5 also imposes mandatory conditions on data acquisition authorities. In particular, see chapter 5, part 8.²²²

 - (ii) inconsistent with a condition of the petroleum tenure to which the authority relates; or
 - (iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and
 - (b) the day it takes effect.
- (6) However, the provisions of the authority may exclude or restrict the carrying out of data acquisition activities.
- (7) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the authority;
 - (b) give, under section 488,²²³ security for the authority.
- (8) If the applicant does not comply with the requirement, the application may be refused.

²²² Chapter 5, part 8 (General provisions for conditions and authorised activities)

²²³ Section 488 (Power to require security for petroleum authority)

179 Notice of refusal

On refusal of the application, the applicant must be given notice of the decision to refuse.²²⁴

Division 2 Provisions for data acquisition authorities²²⁵

180 Key authorised activities

- (1) A data acquisition authority authorises its holder to carry out data acquisition activities in the area of the authority.
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the data acquisition activities is subject to—
 - (a) section 6; and
 - (b) chapter 3, part 4, division 2; and
 - (c) chapter 5; and
 - (d) the mandatory and other conditions of the authority; and
 - (e) any exclusion or restriction provided for in the authority on the carrying out of the activities.²²⁶

181 Additional condition of relevant petroleum tenure

If a condition is imposed on a data acquisition authority (the *authority condition*), it is a condition of the petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

224 See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

225 See also chapter 5 (Common petroleum authority provisions).

226 Section 6 (Relationship with Mineral Resources Act)

Chapter 3 (Provisions for coal seam gas), part 4, division 2 (Restriction on authorised activities on coal mining lease or oil shale mining lease land)

Chapter 5 (Common petroleum authority provisions)

Note—

Chapter 5 also imposes mandatory conditions on data acquisition authorities. In particular, see chapter 5, part 2, division 3 and chapter 5, part 8.²²⁷

182 Authority holder is the relevant petroleum tenure holder from time to time

The holder of a data acquisition authority is taken to be the person who, from time to time, holds the petroleum tenure to which the authority relates.

183 Authority ends if relevant petroleum tenure ends

A data acquisition authority ends if the petroleum tenure to which it relates ends.

184 Relationship with subsequent petroleum tenure

- (1) This section applies if a petroleum tenure is granted over land in the area of a data acquisition authority
- (2) The grant does not limit the authority or its term.
- (3) However, an authorised activity for the authority may be carried out on the land only if—
 - (a) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenure; or
 - (b) the agreement conditions have been complied with.
- (4) In this section—

agreement conditions means that—

 - (a) the tenure holder has agreed in writing to the carrying out of the activity; and
 - (b) a copy of the agreement has been lodged at—

²²⁷ Chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities)

- (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the agreement is still in force.

184A Annual rent

- (1) A data acquisition authority holder must pay the State the rent, as prescribed under a regulation.²²⁸
- (2) The rent must be paid in the way, and on or before the day, prescribed under a regulation.

Part 4 Water rights for petroleum tenures

185 Underground water rights

- (1) A petroleum tenure holder may do any of the following in relation to underground water in the area of the tenure—
 - (a) take or interfere with the water if taking or interference happens during the course of, or results from, the carrying out of another authorised activity for the tenure;

Examples—

- 1 underground water necessarily or unavoidably taken during the drilling of a petroleum well or water observation bore

²²⁸ See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

Petroleum and Gas (Production and Safety) Act 2004

- 2 underground water necessarily or unavoidably taken during petroleum production authorised under section 32 or 109²²⁹
- (b) use water mentioned in paragraph (a) for carrying out of another authorised activity for the tenure;
- (c) take or interfere with the water for use in the carrying out of another authorised activity for the tenure.²³⁰
- (2) The rights under subsection (1) are the ***underground water rights*** for the petroleum tenure.
- (3) There is no limit to the volume of water that may be taken under the underground water rights.
- (4) Underground water taken or interfered with, under subsection (1)(a), from a petroleum well is ***associated water***.
- (5) The tenure holder may use associated water only for an another authorised activity for the tenure.

Note—

If the tenure holder wishes to use associated water for another purpose, the holder must obtain a water licence. See sections 188 and 189 and the Water Act, section 19. To obtain a water licence see the Water Act, chapter 2, part 6.²³¹

- (6) The taking or interference with water under subsection (1)(c) may be carried out by drilling a bore.
- (7) The bore and its casing, wellhead and any other works constructed in connection with it is a ***water supply bore***.
- (8) In this section—
another authorised activity, for the petroleum tenure, means an authorised activity for the tenure under part 1, division 1 or part 2, division 1.

229 Section 32 (Exploration and testing) or 109 (Exploration, production and storage activities)

230 See part 1, division 1 and part 2, division 1 (Key authorised activities).

231 Sections 188 (Authorisation for Water Act) and 189 (Water Act not otherwise affected)

Water Act, section 19 (Rights in all water vests in State) and chapter 2, part 6 (Water licences and permits)

186 Right to allow use of associated water for domestic or stock purposes

A petroleum tenure holder may allow an owner or occupier of any of the following land to use, on that land, associated water taken by the tenure holder for domestic purposes or stock purposes—

- (a) land in the area of the tenure;
- (b) land that—
 - (i) joins land in the area of the tenure; and
 - (ii) is owned by the same person.²³²

187 Water monitoring activities

- (1) A petroleum tenure holder may carry out any of the following activities in the area of the tenure to comply with, or assess the need to comply with, the make good obligation for the tenure—
 - (a) gathering information about, or auditing, an existing Water Act bore;
 - (b) gathering information for an underground water impact report, pre-closure report, monitoring report or review report;
 - (c) monitoring the effect of the exercise of the underground water rights for the tenure;
 - (d) constructing or plugging and abandoning a water observation bore;
 - (e) carrying out restoration measures in relation to an existing Water Act bore for which the make good obligation applies.
- (2) An activity mentioned in subsection (1) is a *water monitoring activity*.

²³² For taking of associated water for other purposes, see the Water Act, chapter 2, part 6 (Water licences and permits).

188 Authorisation for Water Act

For the Water Act, the following are taken to be authorised—

- (a) the taking or interference with or the use of water, under the underground water rights;
- (b) the use, under section 186, of associated water.²³³

189 Water Act not otherwise affected

To remove any doubt, it is declared that a petroleum tenure holder can not take or interfere with or use water as defined under the Water Act unless the taking or interference or use is authorised under this part or the Water Act.²³⁴

Part 5 Water monitoring authorities**Division 1 Obtaining water monitoring authority****190 Who may apply for water monitoring authority**

- (1) A petroleum tenure holder may apply for a water monitoring authority for stated land outside the area of the tenure to allow the holder to comply with, or assess the need to comply with, the make good obligation for the tenure.
- (2) The application may be made or granted—
 - (a) over land in the area of another petroleum authority; and
 - (b) for 1 or more petroleum tenures held by the same applicant.

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

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

191 Requirements for making application

The application must be—

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

192 Deciding application for water monitoring authority

- (1) The Minister may grant or refuse the water monitoring authority.
- (2) However, the water monitoring authority must not be granted unless a relevant environmental authority for the water monitoring authority has been issued.
- (3) The authority must state its area and each petroleum tenure to which it relates.
- (4) The authority may also state—
 - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
 - (i) inconsistent with division 2 or section 202 or 202A²³⁵ or any other mandatory condition for water monitoring authorities; or

Note—

Chapter 5 also imposes mandatory conditions on water monitoring authorities. In particular, see chapter 5, part 8.²³⁶

235 Section 202 (Additional condition of relevant petroleum tenure) or 202A (Annual rent)

236 Chapter 5, part 8 (General provisions for conditions and authorised activities)

- (ii) inconsistent with a condition of any petroleum tenure to which the authority relates; or
 - (iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and
- (b) the day it takes effect.
- (5) However, the provisions of the authority may exclude or restrict the carrying out of water monitoring activities.
- (6) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—
- (a) pay the annual rent for the first year of the authority;
 - (b) give, under section 488,²³⁷ security for the authority.
- (7) If the applicant does not comply with the requirement, the application may be refused.

Division 2 Key authorised activities

193 Operation of div 2

- (1) This division provides for the key authorised activities for a water monitoring authority.²³⁸
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
- (a) sections 6, 197 and 198; and
 - (b) chapter 3, part 4, division 2; and
 - (c) chapter 5; and
 - (d) the mandatory and other conditions of the authority; and

²³⁷ Section 488 (Power to require security for petroleum authority)

²³⁸ For other authorised activities, see chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

- (e) any exclusion or restriction provided for in the authority on the carrying out of the activities.²³⁹

194 Water monitoring activities

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

195 Limited right to take or interfere with underground water

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

Example—

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

196 Authorisation for Water Act

For the Water Act, the taking of or interference with underground water, under section 195, is taken to be authorised.²⁴⁰

197 Water Act not otherwise affected

To remove any doubt, it is declared that the water monitoring authority holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under this division or the Water Act.²⁴¹

239 Section 6 (Relationship with Mineral Resources Act)

Chapter 3 (Provisions for coal seam gas), part 4, division 2 (Restriction on authorised activities on coal mining lease or oil shale mining lease land)

Chapter 5 (Common petroleum authority provisions)

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

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

198 Restriction on carrying out authorised activities

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

Maximum penalty—1000 penalty units.

199 No right to petroleum discovered

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

Division 3 Miscellaneous provisions**200 Term of authority**

Subject to chapter 10, part 2, division 4,²⁴² a water monitoring authority continues in force until there is no longer any petroleum tenure to which the authority relates.

201 Provision for who is the authority holder

- (1) If there is only 1 petroleum tenure to which a water monitoring authority relates, the authority holder is taken to be the person who, from time to time, holds the petroleum tenure to which the authority relates.
- (2) Subsections (3) and (4) apply if there is more than 1 petroleum tenure to which a water monitoring authority relates.
- (3) If, under chapter 5, part 10, all of the tenures are transferred to the same person, the transferee is taken to be the holder of the authority.

²⁴² Chapter 10, part 2, division 4 (Noncompliance procedure for all authorities under Act)

- (4) If, under chapter 5, part 10, 1 or more but not all of the tenures are transferred to the same person, the person from whom the tenures were transferred continues to be the holder of the water monitoring authority.²⁴³

202 Additional condition of relevant petroleum tenure

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

202A Annual rent

- (1) A water monitoring authority holder must pay the State the annual rent, as prescribed under a regulation.²⁴⁴
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

203 Amending water monitoring authority by application

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

243 See also section 569 (Prohibited dealings).

244 See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

Division 2 Storage agreements and related provisions

Subdivision 1 Storage agreements

205 Meaning of *storage agreement* and *existing user*

- (1) A petroleum lease holder may agree (a *storage agreement*) with someone else (an *existing user*) to use a natural underground reservoir in the area of the lease to store petroleum or a prescribed storage gas.²⁴⁶
- (2) However, the lease holder can not enter into a storage agreement for any of the reservoir's storage capacity already agreed to be provided under another storage agreement.
- (3) The existing user may agree with someone else to store petroleum or a prescribed storage gas in the reservoir to the extent of its storage capacity agreed to be used under the existing user's storage agreement with the lease holder.
- (4) However, the existing user may make the agreement only if it complies with the storage agreement between the lease holder and the existing user.
- (5) An agreement under subsection (3) is also a *storage agreement*.
- (6) A person for whom petroleum or a prescribed storage gas is, or is entitled to be, stored under a storage agreement under subsection (3) is also an *existing user* of the reservoir.

206 Development plan overrides storage agreement

If a provision of a storage agreement conflicts with the development plan for the relevant petroleum lease, the development plan prevails to the extent of the inconsistency.

²⁴⁶ See also section 220 (Preferred tenderer may make storage agreements).

207 Existing user's obligation to give information

Each existing user of a natural underground reservoir in the area of a petroleum lease must give the lease holder the information the holder reasonably requires for the safe and reliable use of the reservoir.

Maximum penalty—500 penalty units.

Subdivision 2 Negotiation obligations of petroleum lease holders and existing users**208 Application of sdiv 2**

- (1) This subdivision applies to a petroleum lease holder or an existing user who has available storage capacity for a natural underground reservoir.
- (2) A petroleum lease holder has *available storage capacity* for a natural underground reservoir if the reservoir is in the area of the lease and it has, or is likely to have, storage capacity that—
 - (a) the lease holder has not already agreed to provide under a storage agreement that is in force (the *contracted capacity*); and
 - (b) does not interfere with the carrying out of authorised activities for the lease; and
 - (c) is either—
 - (i) spare; or
 - (ii) would, if additions of plant were made, or works carried out to increase the reservoir's storage capacity, be spare;²⁴⁷ and
 - (d) is technically and practicably feasible, safe and reliable to use.

²⁴⁷ Storage capacity mentioned in subparagraph (ii) is commonly called developable capacity.

- (3) However, the contracted capacity, or a part of the contracted capacity, becomes available storage capacity again if—
 - (a) the existing user of the reservoir gives the lease holder a notice stating the user no longer requires that capacity; and
 - (b) the contracted capacity would otherwise be available storage capacity under subsection (2).
- (4) A notice under subsection (3)(a) may be given for all or a stated part of the contracted capacity.
- (5) An existing user of a natural underground reservoir has ***available storage capacity*** if the reservoir has, or is likely to have, storage capacity agreed to be provided to the existing user under a storage agreement that the existing user is not using and does not expect to use.

209 Obligation to negotiate with proposed users

- (1) A person (a ***proposed user***) may give the lease holder or existing user a notice requiring the holder or existing user to, within a stated reasonable time, start negotiations to attempt to reach a storage agreement for available storage capacity for the reservoir.
- (2) Subject to section 210, the holder or existing user must negotiate in good faith with the proposed user to attempt to reach a fair and reasonable storage agreement with the proposed user.

Maximum penalty for subsection (2)—500 penalty units.

210 Obligation about priority for proposed users

- (1) If—
 - (a) a petroleum lease holder or existing user has started negotiations mentioned in section 209(2) (the ***first negotiations***) with a proposed user; and
 - (b) after the start of the first negotiations, the lease holder or existing user starts negotiations mentioned in section 209(2) (the ***second negotiations***) with another proposed user; and

(c) the first negotiations have not ended;

the lease holder or existing user must, as far as practicable, ensure the first negotiations are not unreasonably affected by the second negotiations.

Maximum penalty—500 penalty units.

- (2) Despite subsection (1), the existing user has priority to negotiate for the storage capacity of the reservoir that will, when the storage agreement by the lease holder (the ***existing agreement***) ends, be available storage capacity for the lease holder.
- (3) However, the priority under subsection (2)—
- (a) applies only to the extent the storage capacity sought is no more than the existing user's entitlement under the existing agreement in the last year before it is to end according to its provisions; and
- (b) ceases 2 years before the existing agreement ends.

211 Obligation to give information

- (1) A proposed user may ask the lease holder or existing user for all information that—
- (a) the lease holder or existing user has about the lease holder's or existing user's available storage capacity for the reservoir; and
- (b) is reasonably necessary to allow the proposed user to negotiate a fair and reasonable storage agreement with the lease holder or existing user.

Examples of possible information about available storage capacity—

the amount of the storage capacity and details of the nature and quality of gas already stored in the reservoir

- (2) The lease holder or existing user must—
- (a) give the information within a reasonable period after receiving the request; and
- (b) if the information has been sought by, or given to another proposed user—ensure it is given on a non-discriminatory basis.

Maximum penalty—500 penalty units.

- (3) For subsection (2)(b), information is given on a non-discriminatory basis if it is—
 - (a) the same, or substantially the same, information as that given to other proposed users; or
 - (b) not so different from information given to other proposed users as to disadvantage the proposed user.
- (4) For subsection (3)(a), if the reservoir's available storage capacity has changed since someone else was given the information, the information given to the proposed user is taken to be substantially the same if, other than for differences that reflect the change, it is the same or substantially the same.

Division 3 Provisions for stored petroleum or prescribed storage gas after petroleum lease ends

Subdivision 1 Preliminary

212 Application of div 3

- (1) This division applies if—
 - (a) a petroleum lease (the *old lease*) ends; and
 - (b) a natural underground reservoir in the area of the old lease is, under a storage agreement, being used to store petroleum or a prescribed storage gas.
- (2) For subsection (1)(a), if an application has been made to renew the old lease and the application is refused, the old lease does not end until the refusal takes effect.²⁴⁸
- (3) Subsection (1) applies even if the storage agreement has, under its own terms, ceased to have effect.

²⁴⁸ See section 167 (When refusal takes effect).

Subdivision 2 Claiming stored petroleum or prescribed storage gas

213 Notice to claim for stored petroleum or prescribed storage gas

- (1) The Minister must by gazette notice, invite anyone who claims ownership of the stored petroleum or prescribed storage gas to make that claim by giving a notice that complies with subsection (2) (a *notice of claim*).
- (2) A notice of claim must—
 - (a) be lodged at the following office within 30 business days after the gazettal—
 - (i) the office of the department for lodging notices of claim, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) state details, and include evidence of, each of the following—
 - (i) any relevant storage agreement;
 - (ii) how the claimant became the owner of the stored petroleum or prescribed storage gas;
 - (iii) how much of the stored petroleum or prescribed storage gas is claimed;
 - (iv) steps taken by the claimant to recover the stored petroleum or prescribed storage gas during the term of the old lease; and
 - (c) be accompanied by the fee prescribed under a regulation.

214 Property in stored petroleum or prescribed storage gas if no notice of claim

If no notice of claim is lodged within the 30 business days, the stored petroleum and prescribed storage gas is taken to have

become the property of the State immediately after the old lease ended.²⁴⁹

Subdivision 3 Deciding claims

215 Deciding claims

- (1) This section applies if within the 30 business days, a notice of claim is lodged.
- (2) The Minister must decide whether, immediately before the old lease ended, the claimant owned any of the stored petroleum or prescribed storage gas.
- (3) The Minister may decide that the claimant does not own any of the stored petroleum or prescribed storage gas if the Minister considers the claimant did not take reasonable steps to recover it during the term of the old lease.
- (4) Subsection (3) applies even if the Minister would, other than for the subsection, have decided that the claimant owned the stored petroleum or prescribed storage gas immediately before the old lease ended.
- (5) If it is decided that the claimant owns any of the stored petroleum or prescribed storage gas, the claimant is taken to have been its owner from when the old lease ended.
- (6) On deciding a claimant does not own any of the stored petroleum or prescribed storage gas claimed, the claimant must be given an information notice about the decision.

216 State property in stored petroleum or prescribed storage gas to extent claims are not upheld

- (1) If, under section 215, it is decided that no claimant owned any of the stored petroleum or prescribed storage gas, the gas is taken to have become the property of the State immediately after the old lease ended.

²⁴⁹ For property in other petroleum in the reservoir, see section 26 (Petroleum the property of the State).

- (2) If, under section 215, it is decided that no claimant owned part of the stored petroleum or prescribed storage gas, that part is taken to have become the property of the State immediately after the old lease ended.

Subdivision 4 Dealing with upheld claims

217 Application of sdiv 4

This subdivision applies if, under section 215, it is decided any claimant owns any of the stored petroleum or prescribed storage gas.

218 Call for tenders required

The Minister must make a call for tenders under section 127²⁵⁰ for a proposed petroleum lease the area of which includes the reservoir.

219 Requirement to notify change in ownership

- (1) If the claimant ceases to own any of the stored petroleum or prescribed storage gas, the claimant must lodge at the relevant office a notice stating—
- (a) the name and contact details of any new owner of the stored petroleum or prescribed storage gas; and
 - (b) how much of the stored petroleum or prescribed storage gas the new owner became the owner of.
- (2) If the new owner, or any one who subsequently acquires any of the stored petroleum or prescribed storage gas, ceases to own any of the stored petroleum or prescribed storage gas, the new owner or other person must lodge a notice under subsection (1) at the relevant office.
- (3) This section does not apply or ceases to apply if—
- (a) the petroleum or prescribed storage gas ceases to be stored in the reservoir; or

250 Section 127 (Call for tenders)

- (b) the claimant or any new owner is granted a petroleum lease the area of which includes the reservoir; or
 - (c) a storage agreement is made for the stored petroleum or prescribed storage gas to which agreement the claimant or any new owner is a party; or
 - (d) under section 226,²⁵¹ the stored petroleum or prescribed storage gas becomes the property of the State.
- (4) In this section—
- relevant office* means—
- (a) the office of the department for lodging notice of change of ownership, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

220 Preferred tenderer may make storage agreements

- (1) A preferred tenderer appointed for the call for tenders²⁵² may enter into a storage agreement with the following persons, as if the preferred tenderer held the petroleum lease and the lease has taken effect—
- (a) if no notices have been lodged under section 219—the claimant;
 - (b) if any notice has been lodged under section 219—any person who, according to notices lodged under that section, owns the stored petroleum or prescribed storage gas.
- (2) A person with whom the preferred tenderer may, under subsection (1), enter into a storage agreement is a ***current owner*** of the stored petroleum or prescribed storage gas.

251 Section 226 (State property in stored petroleum or prescribed storage gas in particular circumstances)

252 For the power to appoint a preferred tenderer, see section 130 (Process for deciding tenders).

221 Negotiation notice

- (1) This section applies if, as a result of the call for tenders, a petroleum lease (a *non-owner lease*) is granted to someone other than a current owner of the stored petroleum or prescribed storage gas.
- (2) The Minister must—
 - (a) give each current owner of the stored petroleum or prescribed storage gas a notice (a *negotiation notice*) stating—
 - (i) who holds the non-owner lease; and
 - (ii) a period within which all current owners of the stored petroleum or prescribed storage gas have to reach a storage agreement with the holder; and
 - (b) give the holder a copy of the negotiation notice.

222 Obligation of holder to negotiate with current owners

On the giving of the negotiation notice to the non-owner lease holder, the holder must, in good faith, negotiate with all current owners of the stored petroleum or prescribed storage gas to attempt to reach a fair and reasonable storage agreement with them.

223 Taking of effect of non-owner lease

- (1) This section applies despite section 123²⁵³ and any provision of a non-owner lease.²⁵⁴
- (2) The non-owner lease does not take effect until the day of effect fixed by the Minister, as notified to its holder.
- (3) The Minister must not fix the day of effect unless—
 - (a) the holder has, at the following office (the *relevant office*), lodged a notice stating that the holder has entered into a storage agreement with any current owner of stored petroleum or prescribed storage gas—

253 Section 123 (Provisions of petroleum lease)

254 See section 133 (Provisions of petroleum lease).

- (i) the office of the department for notices of entry into a storage agreement, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; or
- (b) all current owners of the stored petroleum or prescribed storage gas have, at the relevant office, lodged a notice relinquishing their ownership of any of the stored petroleum or prescribed storage gas (an *ownership relinquishment notice*); or
 - (c) the period stated in the negotiation notice has ended and the Minister is satisfied the holder has complied with section 222.

224 Cancellation of non-owner lease in particular circumstances

Subject to section 225, the non-owner lease is cancelled and is taken never to have had any effect if the Minister has not fixed the day of effect before the last of the following days—

- (a) the day of the first anniversary of the grant of the non-owner lease;
- (b) a later day stated in the non-owner lease.

225 Annual rent for non-owner lease

- (1) This section applies despite section 155²⁵⁵ or any provision of the non-owner lease.
- (2) Annual rent under section 155 for a non-owner lease is payable from granting of the lease.
- (3) If, under section 224, the non-owner lease is cancelled the rent is still payable from the grant until it was cancelled.

255 Section 155 (Petroleum royalty and annual rent)

226 State property in stored petroleum or prescribed storage gas in particular circumstances

Any of the stored petroleum or prescribed gas that a current owner owns becomes the property of the State—

- (a) if the current owner gives an ownership relinquishment notice for it; or
- (b) on the fifth anniversary of the making of the decision under section 215,²⁵⁶ unless, before that anniversary—
 - (i) a petroleum lease the area of which includes the reservoir is granted; and
 - (ii) the lease takes effect.

227 Storage rent payable by current owner

- (1) Each person who is a current owner of any of the stored petroleum or prescribed storage gas must pay the State rent for storing the stored petroleum or prescribed storage gas that the current owner owns from time to time.
- (2) The rent is payable from when the person became the current owner of the stored petroleum or prescribed storage gas until the earlier of the following events to happen—
 - (a) the person ceases to be the current owner of any of the stored petroleum or prescribed storage gas;
 - (b) the taking effect of a petroleum lease the area of which includes the reservoir;
 - (c) under section 226, the stored petroleum or prescribed storage gas becomes the property of the State.
- (3) The rent must be paid at the rate and in the way prescribed under a regulation.

256 Section 215 (Deciding claims)

Division 4 Regulatory provisions

228 Prohibition on actions preventing access

- (1) A person must not engage in conduct for the purpose of preventing someone else from obtaining the use of a natural underground reservoir with available storage capacity in the area of a petroleum lease for petroleum storage.

Maximum penalty—1000 penalty units.

- (2) For subsection (1)—
- (a) a person engages in conduct for a particular purpose if—
- (i) the conduct is or was engaged in for the purpose or for a purpose including the purpose; and
- (ii) the purpose is or was not an incidental or unintended consequence of the conduct engaged in; and
- (b) a person may be found to have engaged in conduct for a purpose even though, after all the evidence has been considered, the existence of the purpose is ascertainable only by inference from the conduct of the person or of someone else or from other relevant circumstances.
- (3) Subsection (2)(b) does not limit the way the purpose of a person may be established for subsection (1).

- (4) In this section—

engage, in conduct, means doing, or refusing to do, an act.

Examples of engaging in conduct—

- refusing to supply a service
- without reasonable grounds, limiting or disrupting a service
- making, or giving effect to, a provision of an understanding
- requiring the giving of, or giving, a covenant

refusing to do, an act, includes—

- (a) refraining, other than inadvertently, from doing the act; or
- (b) making it known the act will not be done.

229 Orders to enforce prohibition on preventing access

- (1) This section applies if, on application of a person, the District Court is satisfied someone else (the *obstructor*) has engaged, is engaging, or proposes to engage, in conduct contrary to section 228.
- (2) The court may make all or any of the following orders—
 - (a) an order granting an injunction, on terms the court considers appropriate—
 - (i) restraining the obstructor from engaging in the conduct; or
 - (ii) if the conduct involves failing to do something—requiring the obstructor to do the thing;
 - (b) an order directing the obstructor to compensate a person for loss or damage suffered by the person because of the conduct;
 - (c) another order the court considers appropriate.
- (3) The court may make any other order, including an injunction, it considers appropriate against another person involved in the conduct.
- (4) The grounds on which the court may decide not to make an order under this section include the ground that this part or a relevant storage agreement provides a more appropriate way of dealing with the issue.

Part 7 Commercial viability assessment**230 Minister's power to require commercial viability report**

- (1) The Minister may, by notice (a *report requirement*), require a petroleum tenure holder to lodge at the relevant office a

written report (a **commercial viability report**) about all or a stated part of its area²⁵⁷ if—

- (a) the holder is not producing petroleum in the area or stated part; and
 - (b) the Minister is of the opinion that—
 - (i) it may be commercially viable to produce or store petroleum in the area or stated part; or
 - (ii) it may, within the next 15 years, be commercially viable to produce or store petroleum in the area or stated part.²⁵⁸
- (2) The notice must state each of the following—
- (a) the Minister's opinion under subsection (1)(b)(i) or (ii);
 - (b) the facts and circumstances forming the basis for the opinion;
 - (c) that the Minister requires the holder to give the Minister a commercial viability report about the area;
 - (d) a reasonable period for giving the report.
- (3) In this section—
- relevant office** means—
- (a) the office of the department for lodging the commercial viability report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

231 Required content of commercial viability report

- (1) A commercial viability report must do all of the following—
- (a) identify each natural underground reservoir in the area the subject of the relevant report requirement;

257 See section 94 (Potential commercial area still part of authority).

258 For the relevance of this period, see part 1, division 6 (Potential commercial areas).

- (b) give an estimate of the amount of petroleum in each reservoir;
 - (c) state the standards and procedures used to make the estimate;
 - (d) state whether, in the opinion of the relevant petroleum tenure holder, it is commercially viable to produce or store petroleum in the area;
 - (e) if the holder's opinion is that it is not commercially viable to produce or store petroleum in the area—state whether, in the holder's opinion, it will, within the next 15 years, be commercially viable to produce or store petroleum in the area;
 - (f) give data, and an analysis of the data, that supports each opinion.
- (2) The supporting data and analysis must include—
- (a) technical data relating to the geology of, and natural underground reservoirs in the area; and
 - (b) market and financial data relevant to the opinions.

232 Minister's power to obtain independent viability assessment

- (1) This section applies for a petroleum tenure, whether or not its holder has lodged a commercial viability report about the tenure.
- (2) The Minister may obtain an independent assessment of the commercial viability of petroleum production or storage in all or part of the area of the tenure (an *independent viability assessment*).
- (3) However, before seeking the assessment, the Minister must give the holder a notice stating each of the following—
 - (a) that the Minister proposes to obtain the assessment;
 - (b) the Minister's reasons for seeking the assessment;
 - (c) the likely costs of obtaining the assessment;
 - (d) whether the State will, under section 233, seek to recover the costs;

- (e) that the holder may, within a stated reasonable period, lodge submissions about the proposed assessment at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) Any submissions lodged by the holder within the stated period must be considered.
- (5) The Minister must after receiving the assessment, give the holder a copy.

233 Costs of independent viability assessment

If—

- (a) the Minister has incurred costs in obtaining, under section 232, an independent viability assessment about a petroleum tenure; and
- (b) the notice under section 232 about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the petroleum tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

the holder must pay the State a reasonable amount for the costs.

Part 8 Petroleum activities coordination

234 Arrangement to coordinate petroleum activities

- (1) The following persons may make an arrangement about a matter mentioned in subsection (2)—
 - (a) the holder of a 1923 Act lease;

- (b) the applicant for, or the holder of, a petroleum lease;
 - (c) the applicant for, or the holder of, a mining lease.
- (2) For subsection (1), the matters are—
- (a) the orderly—
 - (i) production of petroleum from a natural underground reservoir under more than 1 of the leases; or
 - (ii) carrying out of an authorised activity for any of the leases by any party to the arrangement; and
 - (b) petroleum production from more than 1 natural underground reservoir under more than 1 of the leases.
- (3) The arrangement may—
- (a) be for any term; and
 - (b) if each holder of a relevant mining or petroleum lease agrees, provide for a matter that is inconsistent with, to the extent mentioned in subsection (3A), or not provided for under the leases or their conditions; and
 - (c) provide for—
 - (i) the subleasing of, or of an interest in, a relevant petroleum lease to a party to the arrangement or someone else; and
 - (ii) a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement.
- (3A) For subsection (3)(b), the arrangement may only be inconsistent with 1 or more of the following—
- (a) when a petroleum lease holder must start petroleum production under section 154(1);
 - (b) the development plan or the proposed development plan for a lease mentioned in subsection (1);
 - (c) the conditions of the lease imposed under—
 - (i) section 123(3); or
 - (ii) the Mineral Resources Act, section 276(1)(n) or 276(3).

- (4) A person other than the holder, or proposed holder, of a relevant lease may also be a party to a coordination arrangement.
- (5) A coordination arrangement has no effect unless it is approved by the Minister under section 236.²⁵⁹
- (6) In this section—

authorised activity, for—

- (a) a mining lease, means an activity that, under the Mineral Resources Act, is an authorised activity for the lease; or
- (b) a 1923 Act lease, means an activity that, under the 1923 Act, is an authorised activity for the lease.

production includes mining, extraction, production or release carried out under a mining lease.

relevant lease means—

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

Note—

- 1 Under the Mineral Resources Act, a coal or oil shale mining lease holder has a limited entitlement to mine and use incidental coal seam gas, which is *petroleum*. See section 10 of this Act and the Mineral Resources Act, part 7AA, division 8, subdivision 1.²⁶⁰
- 2 A coordination arrangement may provide for mining or production from coextensive natural underground reservoirs. See section 114 and the Mineral Resources Act, section 318CQ.²⁶¹

259 Section 236 (Ministerial approval of proposed coordination arrangement)

260 Section 10 (Meaning of *petroleum*)

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

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

235 Applying for Ministerial approval of proposed coordination arrangement

- (1) The parties to a proposed coordination arrangement may jointly apply for approval of the arrangement.
- (2) The application must be—
 - (a) written; and
 - (b) lodged at—
 - (i) the office of the department for lodging applications under this section, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) accompanied by—
 - (i) the original or a certified copy of the proposed arrangement; and
 - (ii) the fee prescribed under a regulation.
- (3) If the proposed arrangement is inconsistent with the current development plan for a relevant lease, the application must be accompanied by a proposed later development plan for the lease.
- (4) If the proposed plan is for a relevant mining lease, the plan must comply with the later development plan requirements under the Mineral Resources Act.²⁶²
- (5) If the proposed plan is for a relevant 1923 Act lease, the plan must comply with the later development plan requirements under the 1923 Act.

236 Ministerial approval of proposed coordination arrangement

- (1) The Minister may approve the proposed coordination arrangement only if—
 - (a) the Minister is satisfied—

²⁶² See the Mineral Resources Act, section 318ED (Later development plan requirements).

- (i) the arrangement is in the public interest; and
 - (ii) any inconsistency between the arrangement and a condition of a relevant lease and any sublease provided for under the arrangement is appropriate; and
 - (iii) if the arrangement applies to land that is in the area of a coal or oil shale mining tenement and in the area of a petroleum lease or 1923 Act lease—the arrangement clearly identifies the safety responsibilities of each party to the arrangement in relation to the land; and
- (b) for an application required to be accompanied by a proposed later development plan for a relevant lease—the proposed plan has been approved; and
- (c) the arrangement is consistent with—
 - (i) the purpose of this Act; and
 - (ii) if any relevant lease is a mining lease—the purposes of chapter 3 and the objectives of the Mineral Resources Act.²⁶³
- (2) Also, if the proposed plan is for a relevant 1923 Act lease, the relevant provisions of that Act apply in relation to the proposed plan.
- (3) The Minister may refuse to approve a proposed coordination arrangement that provides for a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement if the Minister considers that—
 - (a) having regard to the requirements under chapter 4, the pipeline licence would not be granted if the party were to apply for it; or
 - (b) not enough information has been given to decide whether the licence should be granted; or
 - (c) the spatial relationship between the leases is not appropriate for a coordination arrangement.

²⁶³ See sections 3 (Purpose of Act) and 295 (Main purposes of ch 3) and the Mineral Resources Act, section 2 (Objectives of Act).

- (4) If a relevant lease has not been granted, the approval does not take effect until the lease takes effect.

237 Approval does not confer right to renew

To remove any doubt, it is declared that if the term of a coordination arrangement is longer than the current term of any relevant lease, the approval of the arrangement does not impose an obligation or right to renew the lease.

238 Subleasing of 1923 Act lease provided for under coordination arrangement

On the approval of a coordination arrangement that provides for the subleasing of a 1923 Act lease, the sublease is taken to have been approved, under that Act, as a permitted dealing under that Act.

239 Coordination arrangement overrides relevant leases

- (1) This section applies if there is a conflict between a coordination arrangement and a condition of a relevant lease.
- (2) The arrangement prevails to the extent of the inconsistency.
- (3) If a relevant lease holder has complied with the arrangement, the holder is taken to have complied with the condition to the extent that it is inconsistent with the arrangement.
- (4) This section applies despite another provision of this Act, the 1923 Act or the Mineral Resources Act.

240 Grant of pipeline licence

- (1) This section applies if a coordination arrangement provides for a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement.
- (2) The Minister may, if the party applies under chapter 4, part 2,²⁶⁴ grant the pipeline licence.

²⁶⁴ Chapter 4, part 2 (Pipeline licences)

- (3) Section 412²⁶⁵ applies as if the application were a pipeline licence application.
- (4) However, the provisions of the licence must be consistent with the arrangement.

241 Amendment or cancellation by parties to arrangement

- (1) A coordination arrangement may be amended or cancelled by the parties to the arrangement only with the Minister's approval.
- (2) A purported amendment or cancellation of a coordination arrangement by the parties to it has no effect unless it complies with subsection (1).

242 Minister's power to cancel arrangement

- (1) The Minister may, by complying with subsections (2) and (3), cancel a coordination arrangement.
- (2) If the Minister proposes to cancel the arrangement, the Minister must give each holder of a relevant lease a notice stating—
 - (a) that the Minister proposes to cancel the arrangement; and
 - (b) reasons for the proposed cancellation; and
 - (c) that the holder may lodge submissions at the following office within the stated period about the proposed cancellation or the likely impact of the cancellation on the relevant leases—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (3) Before cancelling the arrangement, the following must be considered—

265 Section 412 (Provisions of licence)

- (a) any submissions lodged by the holder within the stated period;
 - (b) the likely impact of the cancellation on the relevant leases;
 - (c) the public interest.
- (4) If it is decided to cancel the arrangement, each of the holders must be given an information notice about the decision.
- (5) The cancellation takes effect on the end of the appeal period for the decision to cancel, or if a later day of effect is stated in the information notice, on that day.²⁶⁶
- (6) When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.

243 Effect of cancellation

- (1) The cancellation of a former coordination arrangement does not affect any relevant lease.
- (2) Any sublease of a petroleum lease or a 1923 Act lease provided for under the arrangement is cancelled.²⁶⁷

Part 9 Existing Water Act bores

Division 1 Preliminary

244 Simplified outline of pt 9

- (1) This part imposes an obligation on each petroleum tenure holder to do either of the following because of the exercise of underground water rights for the tenure—

²⁶⁶ For the right of appeal and the appeal period, see sections 823 (Who may appeal) and 824 (Period to appeal). See also section 826 (Stay of operation of decision).

²⁶⁷ For the recording of cancellation, see section 565 (Keeping of register).

- (a) take restoration measures in relation to particular water bores;
 - (b) compensate the owners of particular water bores.
- (2) Division 2 provides for when the obligation arises.
 - (3) Divisions 3 and 4 provide for the identification of the bores through underground water impact and pre-closure reports required to be lodged by petroleum tenure holders.
 - (4) Division 5 provides for reports by tenure holders to—
 - (a) monitor the exercise of underground water rights; and
 - (b) assess and review underground water impact reports.
 - (5) Division 6 provides for agreements for, and for the resolution of disputes about, complying with the obligation.

245 What is an *existing Water Act bore*

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

246 When an existing Water Act bore is *unduly affected*

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

247 When an existing Water Act bore has an *impaired capacity*

An existing Water Act bore has an *impaired capacity* if—

- (a) for a bore used for domestic purposes—it is no longer able to provide a reasonable supply of water for the domestic purpose required at its location; or
- (b) for a bore used for stock purposes—there is a material reduction in the number of stock able to be watered from the bore, having regard to the stock carrying capacity of the land serviced by the bore; or
- (c) for a bore from which the taking of or interference with water is authorised under a water licence other than for domestic purposes or stock purposes—there is a material reduction in the pumping supply required to service the relevant enterprise or town water supply.

248 What are *restoration measures*

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

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

Examples of possible restoration measures—

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

249 References to petroleum tenure holder in pt 9

- (1) This section applies if a petroleum tenure ends.
- (2) If the tenure was an authority to prospect and, under chapter 2, part 2, division 2,²⁶⁸ the tenure holder became a petroleum lease holder, a reference in this part—
 - (a) to the petroleum tenure is a reference to the authority to prospect and the petroleum lease; and
 - (b) to the tenure holder includes a reference to the petroleum lease holder.
- (3) Otherwise, a reference in this part to the tenure holder includes a reference to the holder of tenure immediately before it ended.

Division 2 Obligation to make good for existing Water Act bores

250 The make good obligation

- (1) If the exercise of a petroleum tenure holder's underground water rights unduly affects an existing Water Act bore, the holder must—

²⁶⁸ Chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

- (a) within a reasonable period, take restoration measures to restore the supply of water to the owner of the bore; or
 - (b) compensate the owner for the bore being unduly affected.
- (2) If an existing Water Act bore is likely, after the petroleum tenure ends, to become unduly affected by the exercise of the rights, the holder must, before the tenure ends, comply with subsection (1) as if the bore is unduly affected by the exercise of the rights.²⁶⁹
- (3) The obligations under subsections (1) and (2) are the ***make good obligation***.
- (4) Despite subsections (1) and (2), the make good obligation does not apply for an existing Water Act bore if either of the following happened before the commencement of this section—
- (a) the petroleum tenure has ended;
 - (b) the part of the area of the tenure on which the rights were exercised ceased to be part of the area of the tenure.
- (5) However, if the petroleum tenure (the ***original tenure***) ends because it is divided under chapter 2—
- (a) subsection (2) does not apply for the original tenure; but
 - (b) subsection (1) applies to each petroleum tenure (the ***new tenure***) into which the original tenure was divided as if any underground water rights exercised for any part of the area of the original tenure that is in the area of the new tenure were exercised for the new tenure.

251 Provisions for application of make good obligation

- (1) The make good obligation applies—
- (a) whether the bore is inside or outside the area of the petroleum tenure; and

²⁶⁹ See however section 268 (Effect of lodgment of review report).

- (b) even if the bore was first unduly affected by the rights after the tenure ends.
- (2) If the make good obligation under this Act or the 1923 Act applies to more than 1 petroleum tenure holder or 1923 Act petroleum tenure holder for the same existing Water Act bore, the obligations apply to each of them jointly and severally.
- (3) The make good obligation continues to apply despite the ending of the tenure.²⁷⁰

Division 3 Underground water impact reports

Subdivision 1 Fixing of trigger threshold for aquifers

252 Operation of sdiv 1

- (1) This division provides for the fixing of a trigger threshold for aquifers in the area affected by the exercise of underground water rights for a petroleum tenure.
- (2) The fixing of the trigger threshold allows the tenure holder to prepare an underground water impact report for the tenure.

253 Request for trigger threshold and action on request

- (1) The petroleum tenure holder may ask the chief executive what the trigger threshold is for the aquifers.
- (2) The chief executive must—
 - (a) if no trigger threshold already applies for the aquifers—fix a trigger threshold for the aquifers and tell the tenure holder what that trigger threshold is; or
 - (b) if, under section 255, a trigger threshold already applies for the aquifers—tell the tenure holder what that trigger threshold is.

²⁷⁰ For access to the relevant land after the tenure ends to comply with the make good obligation, see section 279 (Right of entry after petroleum tenure ends to comply with make good obligation).

254 Provisions for fixing trigger threshold

- (1) A trigger threshold fixed under section 253(2)(a) must be the water level drop in the aquifers that the chief executive considers would be a level that causes a significant reduction in the maximum pumping rate or flow rate of the existing Water Act bores in the area affected by the exercise of the underground water rights.
- (2) In fixing the trigger threshold, the chief executive—
 - (a) must consider—
 - (i) the permeability and geometry of the aquifers; and
 - (ii) the water levels in the aquifers; and
 - (b) must allow the petroleum tenure holder a reasonable opportunity to make submissions about the trigger threshold proposed by the chief executive; and
 - (c) may ask the tenure holder to give the chief executive documents or information the chief executive reasonably requires to fix the trigger threshold.
- (3) If the request is not complied with the chief executive may fix the trigger threshold using the documents or information available to the chief executive.

255 Fixed trigger threshold applies for all underground water rights

- (1) This section applies if, under section 253(2)(a) or the 1923 Act, section 75IJ(2)(a),²⁷¹ a trigger threshold has already been fixed for an aquifer in any part of the area affected by the exercise of underground water rights for a petroleum tenure.
- (2) The trigger threshold applies for any aquifer in the area for the exercise of underground water rights for any other petroleum tenure.

271 1923 Act, section 75IJ (Request for trigger threshold and action on request)

Subdivision 2 Lodging report

256 Lodging report

- (1) Each petroleum tenure holder must, on or before the relevant time, lodge an underground water impact report at the following office (the *relevant office*)—
 - (a) the office of the department for lodging underground water impact reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (2) An underground water impact report—
 - (a) must comply with section 257; and
 - (b) may relate to the exercise of underground water rights for 1 or more petroleum tenures or 1923 Act petroleum tenures, held by the same person, or by different persons.
- (3) In this section—

relevant time means the earlier of the following—

 - (a) for any petroleum tenure—20 business days after the end of the first year of testing for petroleum production in the area of the tenure;
 - (b) for a petroleum lease—when the lease holder is, under section 599,²⁷² first required to lodge a royalty return for petroleum production in the area of the lease.

257 Requirements for report

- (1) Subject to section 258, an underground water impact report must include each of the following—
 - (a) the trigger threshold for aquifers in the area affected by the exercise of underground water rights for the petroleum tenure;

²⁷² Section 599 (Annual royalty returns)

- (b) details of an underground water flow model prepared by the holder to predict the drop in the water level, because of the exercise of the rights, in aquifers predicted by the holder to be affected by the exercise of the rights;
 - (c) the area and aquifers predicted by the holder to be affected by the rights;
 - (d) details of the existing Water Act bores predicted by the holder to be unduly affected by the exercise of the rights, either alone or in combination with—
 - (i) the exercise of underground water rights of another petroleum tenure holder; or
 - (ii) the taking of water necessarily taken as part of petroleum production under a 1923 Act petroleum tenure;
 - (e) an estimate of when each of the bores will become unduly affected;
 - (f) details of a monitoring program proposed to be carried out by the holder to monitor the impact of the exercise of the rights;
 - (g) other information or matters prescribed under a regulation.
- (2) The underground water flow model must comply with any requirements prescribed under a regulation.
- (3) If the underground water impact report is for a combination of any of the following activities carried out by different persons, it may state the liability, as between the persons, to comply with the make good obligation under this Act or the 1923 Act for each existing Water Act bore identified in the report if it is, or becomes, unduly affected—
- (a) the exercise of the underground water rights for 1 or more petroleum tenures;
 - (b) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures.
- (4) However, a statement under subsection (3) does not affect the tenure holders' joint and several liability under section 251 for the obligation.

258 Exemption from underground water flow model

Section 257(1)(b) need not be complied with if the chief executive is satisfied—

- (a) that, because of the need for data to be collected after the relevant time under section 256 for lodging the report, it is not reasonably possible for the holder to prepare an appropriate underground water flow model before that time; or
- (b) the report shows each of the following matters and, that because of the matters, the existing Water Act bores will not be unduly affected by the exercise of the rights—
 - (i) if there are existing Water Act bores in an aquifer other than the source aquifer for the exercise of the rights—the source aquifer is not hydraulically connected to that aquifer;
 - (ii) any existing Water Act bore in the source aquifer is sufficiently separated in distance from the place where the rights are to be exercised.

Subdivision 3 Consideration of underground water impact report**259 Power to require amendment of report**

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

tenure holder who lodged the original report to lodge an amended underground water impact report that—

- (a) amends the original report in a stated way; or
- (b) includes stated information or material.

Example of a possible material inadequacy—

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

- (4) A requirement under this section must be made by a notice to the petroleum tenure holder who lodged the report.
- (5) The notice must state a reasonable period within which the requirement must be complied with.
- (6) An amended underground water impact report must be lodged at the same office at which the original report must be lodged.
- (7) A petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- (8) In this section—

underground water impact report includes an underground water impact report amended under this section.

260 Decision on report

- (1) The chief executive must decide whether to accept or reject the underground water impact report.
- (2) However, the chief executive may reject the report only if the chief executive is satisfied it is inadequate in a material particular.
- (3) On rejection of the report, the chief executive must give the petroleum tenure holder an information notice about decision to reject the report.
- (4) The information notice must—
 - (a) require the tenure holder to lodge, under section 256,²⁷³ another underground water impact report; and

273 Section 256 (Lodging report)

- (b) state a reasonable period for lodging the other report.
- (5) The tenure holder must comply with the requirement.

Division 4 Pre-closure report

261 Obligation to lodge pre-closure report

- (1) A petroleum tenure holder must, within 40 business days before the earliest of the following times, lodge a report (a *pre-closure report*) for the tenure that complies with section 262—
 - (a) 1 year before the end of the term of the tenure other than because it is divided under chapter 2;
 - (b) when the holder makes a surrender application for the tenure;
 - (c) an earlier time stated in a notice from the chief executive to the holder.
- (2) However, if at any time before the last time by which the holder can, under this Act, apply to renew the tenure, the holder gives the chief executive a written declaration stating that the holder intends to apply to renew the tenure, subsection (1)—
 - (a) only applies if—
 - (i) the holder does not, before that time, make a renewal application for the tenure; or
 - (ii) a renewal application for the tenure is rejected; and
 - (b) does not apply if a renewal application for the tenure is granted, unless—
 - (i) the holder makes a surrender application for the tenure; or
 - (ii) the chief executive gives the holder a notice stating that the holder must, at a stated time, lodge a pre-closure report.
- (3) The report must be lodged at—

- (a) the office of the department for lodging pre-closure reports, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

262 Requirements for report

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

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

263 Power to require amendment of report

- (1) This section applies if, before the end of the petroleum tenure, the chief executive considers that the effect of the exercise of the underground water rights for the tenure is materially different to the effect predicted in the pre-closure report.
- (2) The chief executive may require the tenure holder to lodge, as required under section 261, an amended pre-closure report stating a prediction under section 262(a) that is appropriate.
- (3) A requirement under this section must include, or be accompanied by, an information notice about the decision to make the requirement.
- (4) The information notice must state a reasonable period for lodging the amended report.

264 Effect of lodgment of report

- (1) This section applies from the end of the petroleum tenure if the former tenure holder—

- (a) was, under section 261, required to lodge a pre-closure report; and
 - (b) has lodged a pre-closure report that complies with section 262; and
 - (c) has complied with any requirement under section 263.
- (2) The existing Water Act bores stated in the pre-closure report are, for section 250(2),²⁷⁴ taken to be the only existing Water Act bores that are likely, after the petroleum tenure ends, to become unduly affected by the exercise of the underground water rights for the tenure.

Division 5 Monitoring and review reports

265 Operation of div 5

- (1) This division requires the tenure holder to lodge monitoring reports and review reports.
- (2) The purpose of a monitoring report is to monitor the effect of the exercise of a petroleum tenure holder's underground water rights.
- (3) The purposes of a review report are to—
 - (a) compare the effect of the exercise of the rights with the predicted effect in the holder's relevant underground water impact report to show whether the report continues to be appropriate; and
 - (b) amend the underground water impact report to reflect the results of the comparison.

266 Obligation to lodge monitoring reports

- (1) Subject to sections 269 and 270, the petroleum tenure holder must when the holder is, under section 552,²⁷⁵ required to lodge an annual report for the tenure, lodge a monitoring report for the tenure.

274 Section 250 (The make good obligation)

275 Section 552 (Obligation to lodge annual reports)

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

267 Obligation to lodge review reports

- (1) Subject to sections 269 and 270, the petroleum tenure holder must lodge review reports about each underground water impact report by the holder before each of the following—
- (a) the first anniversary from when the underground water impact report was accepted by the chief executive;
 - (b) the third anniversary of the acceptance;
 - (c) the fifth anniversary of the acceptance;
 - (d) the end of each interval of 5 years after the fifth anniversary.
- (2) The review reports must—
- (a) state the information or matters prescribed under a regulation; and
 - (b) amend the underground water impact report in a way that is consistent with the review report; and
 - (c) be included in the annual report that under section 552, must be lodged at the nearest point in time to when the review reports must be lodged under subsection (1).

- (3) For working out the intervals, any transition, under chapter 2, part 2, division 2,²⁷⁶ of an authority to prospect to a petroleum lease must be disregarded.
- (4) The tenure holder may, at any time, lodge a review report at the office at which annual reports must, under section 552, be lodged.

268 Effect of lodgment of review report

On the lodgment of a review report that complies with section 267—

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

269 Chief executive's power to change frequency of reports

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

270 Chief executive's power to change reporting days

- (1) The chief executive may, by notice to the petroleum tenure holder, change the day on which monitoring reports or review reports must be lodged under this division.

²⁷⁶ Chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

- (2) However, the changed day must not be more than 1 year after the day the report was otherwise required to be lodged.

271 Power to require amendment of review report

- (1) This section applies if the chief executive considers that a review report does not achieve a purpose of a review report, as stated in section 265(3).
- (2) The chief executive may require the holder to lodge at the following office an amended review report that does achieve all of the purposes—
 - (a) the office of the department for lodging amended review reports, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) A requirement under this section must be by a notice that includes an information notice about the decision to make the requirement.
- (4) The information notice must state a reasonable period for lodging the amended report.
- (5) A petroleum tenure holder of whom a requirement under this section has been made must comply with the requirement.
- (6) In this section—
review report includes a review report amended under this section.

Division 6 Complying with make good obligation

Subdivision 1 Obligation to negotiate

272 Petroleum tenure holder's obligation to negotiate

- (1) A petroleum tenure holder must make reasonable attempts to negotiate an agreement (a *make good agreement*) with an

owner of an existing Water Act bore about how the make good obligation for the bore is to be complied with.

- (2) A make good agreement may be included in a compensation agreement under chapter 5, part 5²⁷⁷ between the tenure holder and the owner.

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

273 Application of sdiv 2

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

274 Applying to tribunal

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

275 Provisions for making decision

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

²⁷⁷ Chapter 5, part 5 (General compensation provisions)

- (a) the tribunal may make the decision only to the extent the obligation is not the subject of a make good or other agreement between the tenure holder and the owner; and
 - (b) the tribunal may decide the owner must be compensated only if the tribunal considers it is not reasonably feasible to comply with the obligation by the taking of any restoration measures.
- (3) The tribunal may make any order it considers appropriate to meet or enforce its decision on the application.
- (4) If—
- (a) the obligation arose because of a combination of any of the following—
 - (i) the exercise of the underground water rights for 1 or more petroleum tenures;
 - (ii) the taking of water necessarily taken as part of petroleum production under 1 or more 1923 Act petroleum tenures; and
 - (b) the tenures are held by different persons; and
 - (c) the tenure holders have not agreed between themselves about how much each must contribute to comply with the obligation;
- the tribunal may decide their contributions.
- (5) However, a decision under subsection (4) does not affect the tenure holders' joint and several liability under section 251²⁷⁸ for the obligation.

276 Provisions for deciding compensation

- (1) This section applies if the tribunal decides that the obligation is to be complied with by compensation to the owner.
- (2) The compensation may only be for—
 - (a) diminution of any of the following because of the exercise of underground water rights—

278 Section 251 (Provisions for application of make good obligation)

- (i) the value of the owner's land on which the bore is located;
- (ii) the use the owner has made, or may make, of water from the existing Water Act bore; or
- (b) any cost or loss the owner suffers that is caused by the impaired capacity of the bore.

Example of a possible cost—

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

- (3) In deciding the amount of the compensation, the tribunal may consider any restoration measures, successful or otherwise, taken or attempted by the tenure holder.
- (4) The tribunal must, as far as practicable, decide the compensation at the same time as it makes any decision about any compensation liability that the tenure holder has to the owner under chapter 5, part 5.²⁷⁹

Subdivision 3 Miscellaneous provisions

277 Make good agreement or tribunal's decision binds successors and assigns

- (1) A make good agreement or a decision by the tribunal under subdivision 2 is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
 - (a) the owner of the relevant existing Water Act bore; and
 - (b) each relevant petroleum tenure holder or 1923 Act petroleum tenure holder; and
 - (c) each of their successors and assigns, including successors and assigns of the relevant petroleum tenure.²⁸⁰
- (2) Subsection (1) is subject to section 278.

²⁷⁹ Chapter 5, part 5 (General compensation provisions)

²⁸⁰ See also section 249 (References to petroleum tenure holder in pt 9).

278 Reviews by tribunal

- (1) This section applies if, since the making of a make good agreement or a decision by the tribunal under subdivision 2 (the *original agreement or decision*), there has been a material change in circumstances (the *change*).
- (2) Any person mentioned in section 277 may apply to the tribunal for it to review the original agreement or decision.
- (3) In carrying out the review, the tribunal may review the agreement or decision only to the extent it is affected by the change.
- (4) The tribunal may, after carrying out the review, decide to confirm the original agreement or decision or amend it in a way the tribunal considers appropriate.
- (5) If the decision is to amend the original agreement or decision, the original agreement or decision, as amended under the decision, is for this Act, taken to be the original agreement or decision.

279 Right of entry after petroleum tenure ends to comply with make good obligation

- (1) This section applies if a petroleum tenure holder has not complied with the make good obligation in relation to an existing Water Act bore and the tenure has ended.
- (2) The former tenure holder may enter the land on which the bore is located to comply with the make good obligation.
- (3) Chapter 5, parts 2, 3 and 5,²⁸¹ apply to the former tenure holder as if—
 - (a) the tenure were still in force; and
 - (b) the former tenure holder is its holder; and
 - (c) the land is in the area of the tenure; and
 - (d) compliance with the make good obligation is an authorised activity for the tenure.

²⁸¹ Chapter 5, parts 2 (Private land), 3 (Public land) and 5 (General compensation provisions)

280 Advice from Water Act regulator

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

Part 10 General provisions for petroleum wells, water supply bores and water observation bores**Division 1 Restrictions on drilling****281 Requirements for drilling petroleum well**

- (1) A person drilling a petroleum well must comply with any requirements prescribed under a regulation that apply to the drilling of the well.

Maximum penalty—500 penalty units.

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

282 Restriction on who may drill water observation bore or water supply bore

A person must not drill a water observation bore or water supply bore unless—

- (a) the person is a licensed water bore driller; or

- (b) the Water Act, section 816(2)(a) or (c)²⁸² applies.
Maximum penalty—300 penalty units.

Division 2 Converting petroleum well to water supply bore

283 Restrictions on making conversion

A petroleum tenure holder may convert a petroleum well in the area of the tenure to a water supply bore only if—

- (a) the well has been modified for the purpose of taking water; and
- (b) the modification was carried out by a licensed water bore driller.

Maximum penalty—500 penalty units.

284 Notice of conversion

If a petroleum tenure holder converts a petroleum well to a water supply bore, the holder must, within 10 business days after the conversion, lodge a notice at the following office stating the information prescribed under a regulation—

- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—50 penalty units.

282 Water Act, section 816 (Unauthorised water bore activities)

Division 3 Transfers of petroleum wells, water observation bores and water supply bores

Subdivision 1 General provisions

285 Operation of div 3

- (1) This division permits, in particular circumstances, the transfer of the following in relation to a petroleum well, water observation bore or water supply bore—
 - (a) the control of, and responsibility for, the well or bore;
 - (b) the ownership of any works constructed in connection with the well or bore.
- (2) In this division, a *transfer* of a petroleum well, water observation bore or water supply bore is a reference to a transfer in relation to the well or bore mentioned in subsection (1).²⁸³

286 Transfer only permitted under div 3

A purported transfer of a petroleum well, water observation bore or water supply bore is of no effect unless—

- (a) the transfer is permitted under this division; and
- (b) the requirements under this subdivision for making the transfer have been complied with.

287 Effect of transfer

- (1) If a petroleum well, water observation bore or water supply bore is transferred under this division, any obligation the transferor had under this Act or another law in relation to the well or bore ceases.

²⁸³ For the ownership of works mentioned in subsection (1)(b) generally, see section 542 (Ownership of equipment and improvements).

- (2) However, if the transferor is someone other than the State, subsection (1) does not apply to the Environmental Protection Act.²⁸⁴

Subdivision 2 Permitted transfers

288 Transfer of water supply bore or water observation bore to landowner

- (1) A petroleum tenure holder may, by complying with the requirements under subsection (3), transfer a water observation bore or water supply bore in the area of the tenure to the landowner.
- (2) A water monitoring authority holder may, by complying with the requirements under subsection (3), transfer a water observation bore in the area of the authority to the landowner.
- (3) For subsections (1) and (2), the requirements are that each of the following have been lodged at the relevant office—
- (b) if the Water Act requires the owner to hold a Water Act licence to take water from the bore to be transferred—a copy of the licence;
 - (c) a notice in the approved form;
 - (d) the transfer fee prescribed under a regulation.
- (4) The approved form must require the signed consent of the landowner to the transfer.
- (5) In this section—

construction, for a water supply bore, includes any modification under section 283.

landowner means the owner of the land on which the bore is located.

relevant office means—

284 For transfers by the State, see section 294 (Responsibility for well or bore after decommissioning).

- (a) the office of the department for lodging documents mentioned in subsection (3), as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

289 Transfer of petroleum well to holder of geothermal exploration permit or mining tenement

A petroleum tenure holder may transfer a petroleum well in the area of the tenure to the holder of a geothermal exploration permit or a mining tenement if—

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

290 Transfer of water observation bore to petroleum tenure or water monitoring authority holder

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

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

Subdivision 3 Notice of transfer

291 Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

- (1) If a transfer is made under section 288, the chief executive must give the Water Act regulator notice of the transfer.
- (2) If a transfer is made under section 289, the chief executive must give the chief executive that administers the Mineral Resources Act notice of the transfer.
- (3) A failure to comply with subsection (1) or (2) does not invalidate or otherwise affect the transfer.

Division 4 Decommissioning of petroleum wells, water observation bores and water supply bores

292 Obligation to decommission

- (1) This section applies to a person (the *responsible person*) who holds a petroleum tenure on which there is a well, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder.
- (2) The responsible person must ensure the well or bore is decommissioned from use under this Act before—

- (a) the tenure or authority ends; or
- (b) the land on which the well or bore is located ceases to be in the area of the tenure or authority.

Maximum penalty—500 penalty units.

- (3) However, subsection (2) does not apply—
 - (a) for land that, under section 101(1),²⁸⁵ ceases to be in the area of an authority to prospect; or
 - (b) if the tenure or authority ends because it is divided under chapter 2.

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

- (4) For subsection (2), the well or bore is decommissioned from use under this Act only if—
- (a) it has been plugged and abandoned in the way prescribed under a regulation; and
 - (b) the responsible person has lodged a notice for the well or bore about the decommissioning.²⁸⁶
- (5) The notice must be—
- (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive.

293 Right of entry to facilitate decommissioning

- (1) This section applies if—
- (a) a responsible person under section 292 has not carried out decommissioning on land as required under that section; and
 - (b) the relevant petroleum tenure or water monitoring authority has ended; or
 - (c) the land on which the well or bore is located is no longer in the area of the tenure or authority.
- (2) The responsible person may enter the following land to carry out the decommissioning—
- (a) land (the *primary land*) on which the decommissioning must be, or was required to be, carried out;
 - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.

²⁸⁶ See also section 580 (Power of authorised person to ensure compliance).

- (3) Chapter 5, parts 2, 3 and 5,²⁸⁷ apply to the responsible person, in the following way—
- (a) if the tenure or authority has ended, as if—
 - (i) it were still in force; and
 - (ii) the person is its holder;
 - (b) as if the primary land and access land is in the area of the tenure or authority;
 - (c) as if the decommissioning is an authorised activity for the tenure or authority.

294 Responsibility for well or bore after decommissioning

- (1) This section applies if a petroleum tenure holder or water monitoring authority holder has, under section 292,²⁸⁸ decommissioned a petroleum well, water observation bore or water supply bore.
- (2) Despite the decommissioning, the holder continues to be responsible under this Act for the well or bore until the earlier of the following times (the *relevant time*)—
- (a) when the petroleum tenure ends;
 - (b) when the land on which the well or bore is located ceased to be in the area of the tenure.
- (3) At the relevant time the well or bore is taken to have been transferred to the State.
- (4) Subsection (3) applies despite—
- (a) the exploration bore being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land.
- (5) After the relevant time, the State may transfer the well or bore.

287 Chapter 5, parts 2 (Private land), 3 (Public land) and 5 (General compensation provisions)

288 For ownership before decommissioning, see section 542 (Ownership of equipment and improvements).

- (6) However—
- (a) the transfer from the State can only be to—
 - (i) the owner of the land on which the well or bore is located; or
 - (ii) the holder of a geothermal exploration permit or mining tenement the area of which includes that land; and
 - (b) the transfer from the State and the use of the well or bore by the transferee is subject to this Act and any other relevant Act or law.

Chapter 3 Provisions for coal seam gas

Part 1 Preliminary

Division 1 Introduction

295 Main purposes of ch 3

The main purposes of this chapter are in conjunction with the Mineral Resources Act, part 7AA, and the 1923 Act, part 6F,²⁸⁹ to—

- (a) clarify rights to explore for and produce coal seam gas; and
- (b) address issues arising for coal seam gas exploration and production, and, in particular, issues arising when a petroleum tenure and a coal or oil shale mining tenement are granted over the same area; and

²⁸⁹ Mineral Resources Act, part 7AA and the 1923 Act, part 6F (Provisions for coal seam gas)

- (c) ensure petroleum exploration and production is—
 - (i) carried out safely; and
 - (ii) does not compromise the safe and efficient mining of coal seams or oil shale; and
- (d) provide security of tenure to protect existing operations and investments relating to coal, oil shale and petroleum;²⁹⁰ and
- (e) provide certainty of tenure for future investments relating to coal, oil shale and petroleum; and
- (f) optimise the development and use of the State's coal, oil shale and petroleum resources to maximise the benefit for all Queenslanders; and
- (g) ensure petroleum exploration and production does not compromise the ability to mine coal seams economically in the future; and
- (h) ensure, if it is commercially and technically feasible, the grant of petroleum leases that may affect coal or oil shale mining, or proposed coal or oil shale mining, optimises the commercial use of coal, oil shale and petroleum resources in a safe and efficient way.

296 How main purposes are achieved

- (1) The main purposes of this chapter are achieved by—
 - (a) providing for processes to decide the priority of overlapping petroleum lease applications and coal or oil shale mining tenement applications and potential applications; and
 - (b) facilitating the obtaining of a petroleum lease over land in the area of a coal or oil shale mining lease; and
 - (c) imposing additional requirements for deciding the overlapping applications; and

²⁹⁰ For existing operations, see also the Mineral Resources Act, part 19, division 6 (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004).

- (d) imposing restrictions on the authorised activities for particular petroleum tenures; and
- (e) imposing additional—
 - (i) requirements relating to development plans for petroleum exploration or production under a petroleum lease; and
 - (ii) conditions on authorities to prospect and petroleum leases; and
- (f) granting, under part 2, division 1 and part 3, division 3,²⁹¹ the following the right to apply for a petroleum lease—
 - (i) particular coal or oil shale mining tenement holders;
 - (ii) others who apply jointly with the holders.
- (2) The following are also relevant to the achievement of the purposes—
 - (a) sections 10, 800(2) and 802(1)(c);
 - (b) chapter 2, part 8;
 - (c) chapter 9;
 - (d) the Mineral Resources Act, sections 3A, and 6, part 7AA and part 19, division 6.²⁹²

297 Relationship with chs 2 and 5 and ch 15, pt 3

- (1) Requirements and restrictions under this chapter apply as well as any relevant requirements under chapters 2 or 5 or chapter 15, part 3.²⁹³

²⁹¹ Part 2, division 1 (Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder) and part 3, division 3 (Petroleum lease application by or jointly with coal or oil shale mining lease holder)

²⁹² Sections 10 (Meaning of *petroleum*), 800 (Restriction on petroleum tenure activities), 802 (Restriction on pipeline construction or operation), chapter 2, part 8 (Petroleum activities coordination) and chapter 9 (Safety)

Mineral Resources Act, sections 3A (Relationship with petroleum legislation) and 6 (Meaning of *mineral*), part 7AA (Provisions for coal seam gas) and part 19, division 6 (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

- (2) If this chapter imposes a requirement for or a restriction on the granting, renewal, division or transfer of a petroleum tenure, the tenure can not be granted, renewed, divided or transferred if the restriction applies or if the requirement has not been complied with.
- (3) If this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a petroleum tenure or data acquisition authority, despite chapter 2, the activity is not an authorised activity for the tenure while the restriction applies or if the requirement has not been complied with.
- (4) If a provision of this chapter conflicts with a provision of chapter 2 or 5 or chapter 15, part 3, the provision of this chapter prevails to the extent of the inconsistency.

298 Description of petroleum leases for ch 3 and ch 15, pt 3

Despite section 29²⁹⁴ and any provision of chapter 3 or chapter 15, part 3, a petroleum lease applied for or granted under this chapter may be described in metes and bounds.

Division 2 Definitions for chapter 3

299 What is *coal seam gas* and *incidental coal seam gas*

- (1) ***Coal seam gas*** is petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.
- (2) ***Incidental coal seam gas*** is incidental coal seam gas as defined under the Mineral Resources Act, section 318CM(2).²⁹⁵

293 Chapters 2 (Petroleum tenures and related matters) or 5 (Common petroleum authority provisions) or chapter 15, part 3 (Transitional provisions relating to 1923 Act)

294 Section 29 (Graticulation of earth's surface into *blocks* and *sub-blocks*)

295 Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

300 What is *oil shale*

Oil shale is any shale or other rock (other than coal) from which a gasification or retorting product may be extracted or produced.

301 What is a *coal exploration tenement* and a *coal mining lease*

- (1) A *coal exploration tenement* is an exploration permit or mineral development licence under the Mineral Resources Act granted for coal.
- (2) A *coal mining lease* is—
 - (a) a mining lease for coal; or
 - (b) a special coal mining lease granted under any of the following Acts, an agreement provided for under any of the Acts or any amendment of an agreement provided for under any of the Acts—
 - (i) the *Central Queensland Coal Associates Agreement Act 1968*;
 - (ii) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962 to 1965*; or
 - (c) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal mining, whether or not it is also granted for a purpose other than coal mining.
- (3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

302 What is an *oil shale exploration tenement* and an *oil shale mining lease*

- (1) An *oil shale exploration tenement* is an exploration permit or mineral development licence granted for oil shale.
- (2) An *oil shale mining lease* is—
 - (a) a mining lease for oil shale; or
 - (b) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of oil shale

mining, whether or not it is also granted for a purpose other than oil shale mining.

- (3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

303 What is a *coal or oil shale mining tenement*

A coal or oil shale mining tenement is—

- (a) a coal exploration tenement; or
- (b) an oil shale exploration tenement; or
- (c) a coal or oil shale mining lease.

Part 2 Obtaining petroleum lease over land in area of coal or oil shale exploration tenement

Division 1 Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder

Subdivision 1 Preliminary

304 Application of div 1

- (1) This division applies if—
 - (a) land is in the area of a coal or oil shale exploration tenement; and
 - (b) a person, who, under section 117,²⁹⁶ may make an ATP-related application for all or part of the land wishes to make that application.
- (2) However, this division does not apply if—
 - (a) the person is the tenement holder; or
 - (b) if the application is to be made jointly with the tenement holder; or
 - (c) the application is made with the tenement holder's written consent.²⁹⁷

²⁹⁶ Section 117 (Who may apply)

²⁹⁷ For the circumstances mentioned in subsection (2), see division 2 (Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder).

Subdivision 2 Provisions for making petroleum lease application

305 Additional requirements for making application

- (1) The ATP-related application must include the following—
 - (a) a statement (a *CSG statement*) that complies with section 306;
 - (b) other information that addresses the matters mentioned in subsection (2) (the *CSG assessment criteria*), other than the matter mentioned in subsection (2)(e)(iii).
- (2) The CSG assessment criteria are—
 - (a) the requirements of chapter 9;²⁹⁸ and
 - (b) the initial development plan requirements; and
 - (c) the additional requirements under part 6 for proposed initial development plans; and
 - (d) the legitimate business interests of the applicant and the coal or oil shale exploration tenement holder (the *parties*); and

Examples of a party's legitimate business interests—

 - contractual obligations
 - the effect on, and use of, existing infrastructure or mining or production facilities
 - exploration expenditure on relevant overlapping tenures
 - (e) the effect of the proposed petroleum lease on the future development of coal or oil shale resources from the land, including for example, each of the following—
 - (i) the proposed timing and rate of petroleum production and the development of coal or oil shale resources from the land;
 - (ii) the potential for the parties to make a coordination arrangement about—

- (A) petroleum production under the proposed petroleum lease; and
 - (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land;
 - (iii) the attempts required of the applicant under section 310(1)(b) and any changes of the type mentioned in section 310(1)(c);²⁹⁹
 - (iv) the economic and technical viability of the concurrent or coordinated petroleum production and the development of any coal or oil shale resources in the land;
 - (v) the extent, nature and value of petroleum production and the development of any coal or oil shale resources in the land; and
 - (f) the public interest in petroleum production from, and the development of any coal or oil shale resources in, the land, having regard to the public interest.
- (3) The proposed development plan included in the application must also comply with part 6.

306 Content requirements for CSG statement

- (1) A CSG statement must—
- (a) assess—
 - (i) the likely effect of proposed petroleum production on the future development of coal or oil shale resources from the land; and
 - (ii) the technical and commercial feasibility of coordinated petroleum production and coal or oil shale mining from the land; and
 - (b) include a proposed safety management plan for all operating plant, or proposed operating plant, for proposed petroleum production under the lease that may

²⁹⁹ Section 310 (Applicant's obligations)

affect possible future safe and efficient mining under the coal or oil shale mining lease.

- (2) The proposed safety management plan must—
- (a) for activities of the plant that may affect future safe and efficient mining of coal, comply with the requirements under sections 388 and 675 for a safety management plan;³⁰⁰ and
 - (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient mining under a future mining lease.³⁰¹

Subdivision 3 Provisions for splitting application in particular circumstances

307 Requirement to split application if it relates to coal or oil shale mining tenements not held by the same person

- (1) This section applies if the ATP-related application is—
- (a) for land in the area of each of the following—
 - (i) the coal or oil shale exploration tenement (the *exploration tenement part*);
 - (ii) a coal or oil shale mining lease (the *mining lease part*); and
 - (b) the exploration tenement and the mining lease are not held by the same person.³⁰²
- (2) The application must be treated as if it were separate applications for the exploration tenement part and the mining lease part.

300 Sections 388 (Additional content requirements) and 675 (Content requirements for safety management plans)

301 See also section 385 (Grant of petroleum lease does not affect obligation to make plan).

302 If the coal or oil shale exploration tenement and the coal or oil shale mining lease are held by the same person, see section 344(3) (Application of div 2).

- (3) The application for the exploration tenement part must be decided under this division.
- (4) The application for the mining lease part must be decided under part 3.³⁰³
- (5) Despite subsections (2) to (4) and any other provision of this part, no step may be taken in relation to deciding the applications until the relevant requirements for making them have been complied with.³⁰⁴

308 Power to split application if it includes other land

- (1) This section applies if the ATP-related application includes land (the *other part*) not in the area of a coal or oil shale mining tenement.
- (2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate petroleum lease application.
- (3) The separate application must be decided under chapter 2.³⁰⁵
- (4) Despite subsections (2) and (3) and any other provision of this part, no step may be taken in relation to deciding the applications until the relevant requirements for making them have been complied with.³⁰⁶

309 Power to split application at applicant's request

- (1) The Minister may, at the applicant's request, decide to treat the application as if it were separate petroleum lease applications to allow them to be decided under this chapter or chapter 2, as the Minister considers appropriate.
- (2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

303 Part 3 (Obtaining petroleum lease over land in area of coal or oil shale mining lease)

304 For the applicants' power to amend, see section 844 (Amending applications).

305 Chapter 2 (Petroleum tenures and related matters)

306 For the applicants' power to amend, see section 844 (Amending applications).

Subdivision 4 Obligations of applicant and coal or oil shale exploration tenement holder

310 Applicant's obligations

- (1) The applicant must—
- (a) within 10 business days after making the ATP-related application, give the coal or oil shale exploration tenement holder a copy of the application, other than any part of the application that relates to the capability criteria; and
 - (b) use reasonable attempts to—
 - (i) consult with the tenement holder about the applicant's proposed development plan and proposed safety management plan; and
 - (ii) make an appropriate arrangement with the tenement holder about advanced testing carried out, or proposed to be carried out, by the tenement holder (a *testing arrangement*);³⁰⁷ and

Example of advanced testing—

bulk sampling
 - (c) change the proposed plans to give effect to any reasonable proposal by the tenement holder that will optimise the safe and efficient production of—
 - (i) petroleum under the proposed petroleum lease; and
 - (ii) coal or oil shale under any future mining lease over the land; and
 - (d) within 4 months after the making of the application, lodge a notice stating each of the following—
 - (i) the details of the consultation;
 - (ii) the results of the consultation;

307 See also part 8 (Confidentiality of information).

- (iii) any comments the applicant wishes to make about any submissions lodged by the tenement holder, under section 314;³⁰⁸
 - (iv) any changes to the proposed development plan or proposed safety management plan;
 - (v) if a testing arrangement has been made—details of the arrangement;
 - (vi) if a testing arrangement has not been made—details of the attempts made to make a testing arrangement;
 - (vii) the applicant's assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the proposed petroleum lease; and
 - (B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land.
- (2) However, the obligations under subsection (1)(b)(ii) and (c) apply only to the extent the provisions or arrangement are commercially and technically feasible for the applicant.
 - (3) For subsection (1)(b)(ii), if the exploration tenement is an exploration permit, it is appropriate for the agreement to give the permit holder the right to carry out advanced testing to satisfy the Minister under the Mineral Resources Act, section 186(1)(b).³⁰⁹
 - (4) However, subsection (3) does not require the applicant to agree to testing having a duration of more than 12 months.
 - (5) A notice under subsection (1)(d) must be lodged at—
 - (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or

308 Section 314 (Submissions by coal or oil shale exploration tenement holder)

309 See the Mineral Resources Act, section 186(1)(b) (Minister may grant or reject application for mineral development licence).

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

311 Minister may require further negotiation

- (1) The Minister may, after receiving the notice under section 310(1)(d), require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to—
 - (a) making a testing arrangement mentioned in section 310(1)(b)(ii); or
 - (b) making changes of a type mentioned in section 310(1)(c).
- (2) The applicant must use all reasonable attempts to comply with the requirement.

312 Consequence of applicant not complying with obligations or requirement

If the Minister is reasonably satisfied the applicant has not complied with an obligation under section 310 or 311, the ATP-related application may be refused.³¹⁰

313 Obligations of coal or oil shale exploration tenement holder

The coal or oil shale exploration tenement holder must—

- (a) within 20 business days after receiving a copy of the application, give the applicant basic information the tenement holder has about the following that the applicant may reasonably need to comply with sections 305, 306 and 310—
 - (i) the type of exploration activities carried out, or proposed to be carried out under the tenement;
 - (ii) coal or oil shale resources in the land; and

310 See also part 8 (Confidentiality of information).

- (b) after receiving a copy of the ATP-related application, make reasonable attempts to reach an agreement with the applicant about the matters mentioned in section 310(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.³¹¹

314 Submissions by coal or oil shale exploration tenement holder

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the ATP-related application at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (2) However, the submissions may be lodged only within 3 months after the holder is, under section 310(1)(a),³¹² given a copy of the application (the *submission period*).
- (3) The submissions may—
 - (a) state that the holder does not object to the granting of the proposed petroleum lease; and
 - (b) state that the holder does not wish any preference for the future development of coal or oil shale from the land (*coal or oil shale development preference*); and
 - (c) include information about all or any of the following—
 - (i) exploration carried out under the tenement;
 - (ii) the results of the exploration;
 - (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; and
 - (d) include a proposal by the tenement holder for the development of coal or oil shale in the land; and

311 See also part 8 (Confidentiality of information).

312 Section 310 (Applicant's obligations)

- (e) include information relevant to the CSG assessment criteria;³¹³ and
 - (f) include reasonable provisions for the safety management plan for petroleum production under the petroleum lease.³¹⁴
- (4) The holder must give the applicant a copy of the submissions.
 - (5) In deciding the ATP-related application, regard must be had to the submissions.

Subdivision 5 Priority for earlier coal or oil shale mining lease application or proposed application

315 Earlier coal or oil shale mining lease application

- (1) The ATP-related application must not be decided if—
 - (a) before the making of the ATP-related application, a coal or oil shale mining lease application was made for the land; and
 - (b) the mining lease application complies with the Mineral Resources Act, sections 245 and 246, and any relevant provision of part 7AA of that Act;³¹⁵ and
 - (c) the mining lease application has not been decided.
- (2) However, subsection (1) does not apply if—
 - (a) the ATP-related application was made in response to an invitation in a notice given under the Mineral Resources Act, section 318BG³¹⁶ and the application was made within 6 months after the giving of the notice; or

313 See also part 8 (Confidentiality of information).

314 See also section 386 (Requirements for consultation with particular coal or oil shale mining tenement holders).

315 Mineral Resources Act, sections 245 (Application for grant of mining lease), 246 (Description of mining lease) and part 7AA (Provisions for coal seam gas)

316 Mineral Resources Act, section 318BG (Notice to applicant and authority to prospect holder)

- (b) the coal or oil shale mining lease applicant has given written consent to the petroleum lease application.³¹⁷

316 Proposed coal or oil shale mining lease for which EIS approval given

- (1) The ATP-related application must not be decided if—
 - (a) before the making of the ATP-related application, an approval under the Environmental Protection Act, chapter 3, part 2,³¹⁸ was granted for the voluntary preparation of an EIS for a project that is, or includes, a proposed coal or oil shale mining lease mining lease for the land; and
 - (b) the proponent for the EIS—
 - (i) is, or includes, the coal or oil shale exploration tenement holder; or
 - (ii) is someone else who has the tenement holder's consent.
- (2) However, subsection (1) ceases to apply if—
 - (a) the proponent of the EIS does not make a coal or oil shale mining lease application for the land within 1 year after the granting of the approval; or
 - (b) a coal or oil shale mining lease application is made for the land within the period mentioned in paragraph (a) and—
 - (i) it does not comply with the Mineral Resources Act, sections 245 and 246, and any relevant provision of part 7AA of that Act; or
 - (ii) it is decided; or

317 See however the Mineral Resources Act, part 7AA, division 4 (Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision).

See also the Mineral Resources Act, section 318AY (Earlier petroleum lease application).

318 Environmental Protection Act, chapter 3, part 2 (Voluntary preparation of EIS)

- (c) the proponent for the EIS has given written consent to the petroleum lease application.

317 Proposed mining lease declared a significant project

- (1) The ATP-related application must not be decided if—
 - (a) before the making of the ATP-related application, a significant project is declared for a proposed coal or oil shale mining lease for the land; and
 - (b) the proponent for the significant project—
 - (i) is, or includes, the coal or oil shale exploration tenement holder; or
 - (ii) is someone else who has the tenement holder's consent.
- (2) However, subsection (1) ceases to apply if—
 - (a) the proponent of the significant project does not make a coal or oil shale mining lease application for the land within 1 year after the making of the declaration; or
 - (b) a coal or oil shale mining lease application is made for the land within the period mentioned in paragraph (a) and—
 - (i) it does not comply with the Mineral Resources Act, sections 245 and 246, and any relevant provision of part 7AA of that Act; or
 - (ii) it is decided.
 - (c) the proponent of the significant project has given written consent to the mining lease application.

Subdivision 6 Ministerial decision about whether to give any preference to development of coal or oil shale resources

318 When preference decision is required

- (1) This subdivision applies for the application only if the Minister is satisfied of each of the following—
 - (a) there is a resource or reserve (the *deposit*) of coal or oil shale in the land;
 - (b) the deposit has been identified under the relevant code;
 - (c) there is the level of knowledge about the deposit, as prescribed under a regulation;
 - (d) the location, quantity, quality, geological characteristics and continuity of the deposit are known, or have been estimated or interpreted, from specific geological evidence and knowledge;
 - (e) there are reasonable prospects for the eventual economic mining of the deposit.
- (2) However, this subdivision does not apply if—
 - (a) the coal or oil shale exploration tenement holder has not complied with section 313(a);³¹⁹ or
 - (b) the tenement holder has, under section 314,³²⁰ lodged a submission stating that the holder does not wish any coal or oil shale development preference for the land; or
 - (c) the tenement holder has not lodged any submission under section 314 within the submission period.
- (3) If the Minister decides that the Minister is not satisfied as mentioned in subsection (1), the tenement holder must be given notice of the decision.

319 Section 313 (Obligations of coal or oil shale exploration tenement holder)

320 Section 314 (Submissions by coal or oil shale exploration tenement holder)

(4) In this section—

relevant code means any of the following—

- (a) the document called ‘Australasian Code for Reporting of Mineral Resources and Ore Reserves (The JORC Code)’ and incorporated guidelines, published by the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and Minerals Council of Australia (*JORC*),³²¹ as amended and published from time to time;
- (b) another document (however called) published by JORC that amends or replaces the code mentioned in paragraph (a);
- (c) if a document mentioned in paragraph (a) or (b) stops being published—another similar document prescribed under a regulation.

Note—

- 1 If the Minister is not satisfied as mentioned in subsection (1), the application can be decided under chapter 2.
- 2 If this subdivision does not apply because of subsection (2), the application can be decided under chapter 2 and subdivision 8.³²²

319 Decision about whether to give any preference to development of coal or oil shale

- (1) Subject to section 320, the Minister must decide whether to—
 - (a) grant the petroleum lease application; or
 - (b) give any coal or oil shale development preference for the land, in whole or part.
- (2) The decision under subsection (1) is the *preference decision*.
- (3) In making the preference decision the CSG assessment criteria must be considered.

321 A copy of the document is available on the internet at <www.jorc.org>.

322 Chapter 2 (Petroleum tenures and related matters) and subdivision 8 (Deciding petroleum lease)

- (4) If, under the Mineral Resources Act, part 7AA, division 2, subdivision 6,³²³ petroleum development preference has been given for the land, the preference decision is taken to be not to give coal or oil shale development preference for any of the land.

320 Reference to tribunal before making preference decision

- (1) Before making the preference decision—
- (a) the chief executive must refer the application to the tribunal for it to make recommendations to the Minister about what the preference decision should be; and
 - (b) the Minister must consider the recommendations.
- (2) The referral must be made by filing a notice in the approved form with the registrar of the tribunal.
- (3) The referral starts a proceeding before the tribunal for it to make the recommendations.
- (4) The parties to the proceeding are the applicant and the coal or oil shale exploration tenement holder.
- (5) In making the recommendations—
- (a) the CSG assessment criteria must be considered; and
 - (b) section 321 applies as if a reference in the section—
 - (i) to the Minister were a reference to the tribunal; and
 - (ii) to coal or oil shale development preference were a reference to recommending coal or oil shale development preference.
- (6) The recommendations may also include recommendations about the conditions and term of the petroleum lease.

321 Restrictions on giving preference

- (1) Coal or oil shale development preference, in whole or part, must not be given unless this section has been complied with.

323 Mineral Resources Act, part 7AA, division 2, subdivision 6 (Ministerial decision about whether to give any preference to petroleum development)

- (2) Coal or oil shale development preference may be given only if the Minister is satisfied of each of the following—
- (a) on the basis of the submissions and the results of consultation lodged under sections 310 and 314,³²⁴ it is either not commercially or technically feasible or it is unlikely that the applicant and the coal or oil shale exploration tenement holder are able to make a future coordination arrangement about—
 - (i) petroleum production under the proposed petroleum lease; and
 - (ii) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease for the land;
 - (b) that, having regard to the public interest, the public interest in the following would be best served by not granting a petroleum lease to the petroleum lease applicant first—
 - (i) petroleum production;
 - (ii) coal or oil shale mining and any incidental coal seam gas mining;
 - (c) if the coal or oil shale is a brownfield coal or oil shale resource—
 - (i) it is critical to the continuance of an existing mining operation or the efficient use of infrastructure related to the operation; and
 - (ii) the applicant's proposed development plan is incompatible with the future development of the resource;
 - (d) if the coal or oil shale is a greenfield coal or oil shale resource—
 - (i) it is commercially viable; and

324 Sections 310 (Applicant's obligations) and 314 (Submissions by coal or oil shale exploration tenement holder)

- (ii) coal or oil shale mining will, if a mining lease is granted to the tenement holder, start within 2 years after the grant of the lease.

- (3) In this section—

brownfield coal or oil shale resource means coal or oil shale associated with, or adjacent to, an existing mining operation under the Mineral Resources Act.

greenfield coal or oil shale resource means coal or oil shale that is not associated with, or adjacent to, an existing mining operation under the Mineral Resources Act.

Subdivision 7 Process if preference decision is to give any preference to development of coal or oil shale resources

322 Application of sdiv 7

This subdivision applies only if, under section 318,³²⁵ a preference decision is required and that decision was to give coal or oil shale development preference for the whole or part of the land.

323 Notice to applicant and coal or oil shale exploration tenement holder

- (1) The chief executive must give the applicant and the coal or oil shale exploration tenement holder notice of the preference decision.
- (2) The notice must invite the tenement holder to, within 6 months after the giving of the notice (the ***mining lease application period***), apply for a mining lease for—
- (a) if the preference is for all of the land—all of the land; or
 - (b) if the preference is for part of the land—that part.

325 Section 318 (When preference decision is required)

324 Mining lease application for all of the land

- (1) This section applies if the preference is for all of the land and, within the mining lease application period, the coal or oil shale exploration tenement holder applies for a mining lease for all of the land.
- (2) A further step can not be taken to decide the ATP-related application until after the mining lease application has been decided.³²⁶
- (3) If the decision on the mining lease application is to grant a mining lease for all of the land, the ATP-related application is taken to have lapsed, unless the coal or oil shale exploration tenement holder has consented in writing to the application.

325 Mining lease application for part of the land

- (1) This section applies if the coal or oil shale exploration tenement holder applies for a mining lease for part of the land within the mining lease application period.
- (2) The person who made the ATP-related application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.
- (3) Unless the amendment is made, a further step can not be taken to decide the ATP-related application until after the mining lease application has been decided.³²⁷
- (4) If—
 - (a) the amendment has not been made; and
 - (b) the decision on the mining lease application is to grant a mining lease for part of the land;

326 See however the Mineral Resources Act, part 7AA, division 4 (Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision).

327 See however the Mineral Resources Act, part 7AA, division 4 (Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision).

the person who made the ATP-related application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.³²⁸

326 No mining lease application

If the coal or oil shale exploration tenement holder does not apply for a mining lease for any of the land within the mining lease application period, the ATP-related application may be decided.

Subdivision 8 Deciding petroleum lease

327 Application of sdiv 8

This subdivision applies if—

- (a) the coal or oil shale exploration tenement holder has not complied with section 313(a);³²⁹ or
- (b) the tenement holder has, under section 314,³³⁰ lodged a submission stating that the holder does not wish any coal or oil shale development preference for the land; or
- (c) the tenement holder has not lodged any submission under section 314 within the submission period; or
- (d) under section 318,³³¹ a preference decision is required and—
 - (i) the preference decision was not to give coal or oil shale development preference for any of the land; or
 - (ii) the preference decision was to give coal or oil shale development preference for the whole or part of the land and, after subdivision 7 is complied

328 If the petroleum lease application is not amended, see section 350 (Additional requirements for grant).

329 Section 313 (Obligations of coal or oil shale exploration tenement holder)

330 Section 314 (Submissions by coal or oil shale exploration tenement holder)

331 Section 318 (When preference decision is required)

with, the Minister decides to grant a petroleum lease for the land.

328 Additional criteria for deciding provisions of petroleum lease

- (1) In deciding the provisions of the petroleum lease the following must also be considered—
 - (a) the CSG assessment criteria;
 - (b) the affect of the petroleum lease on safe and efficient mining of coal or oil shale under any adjacent lease;
 - (c) the affect on safe and efficient mining of coal or oil shale under any future coal or oil shale mining lease that arises from the coal or oil shale exploration tenement.
- (2) Subsection (1) does not limit other matters that must be considered under chapter 2.³³²

329 Power to impose relinquishment condition

- (1) In deciding the provisions of the petroleum lease, a condition may be imposed that its holder is required, by a notice lodged at the following office, to relinquish a stated part or percentage of its area at stated times or intervals—
 - (a) the office of the department for lodging relinquishment notices, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.³³³
- (2) A condition mentioned in subsection (1) is a *relinquishment condition*.³³⁴
- (3) This section does not limit any power under chapter 2 to impose conditions on the petroleum lease.

332 See sections 104 to 123 and 133 and 134.

333 See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

334 See also section 367 (Requirement for giving of copy of relinquishment report).

- (4) A relinquishment under a relinquishment condition takes effect on the day after the notice is lodged.

330 Publication of outcome of application

- (1) After the Minister decides whether to grant the petroleum lease, the chief executive must publish a notice about the outcome of the application in the gazette or another publication the Minister considers appropriate.
- (2) The notice must state—
- (a) whether the Minister decided to grant or not to grant the petroleum lease; and
 - (b) if the decision was to grant—any conditions of the petroleum lease other than the mandatory conditions; and
 - (c) if, under section 318,³³⁵ a preference decision was required and that decision was to give coal or oil shale development preference for the whole or part of the land—the decision, and the reasons for it.
- (3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may, instead of publishing the condition, publish a statement about the intent of the condition.

Division 2 Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder

331 Application of div 2

- (1) This division applies if—
- (a) an authority to prospect holder wishes to make an ATP-related application for all or part of land in the area of a coal or oil shale exploration tenement; and

335 Section 318 (When preference decision is required)

- (b) the tenement holder has consented to the making of the application.
- (2) This division also applies if—
 - (a) land is in the area of a coal or oil shale exploration tenement; and
 - (b) a person as follows wishes to apply for a petroleum lease for all or part of the land—
 - (i) the coal or oil shale exploration tenement holder;
 - (ii) a person who wishes to make the application jointly with the holder; and
 - (c) a person mentioned in paragraph (b) has made a coal mining lease application or oil shale mining lease application for the land and the application is not for a specific purpose mining lease; and
 - (d) the purpose of the proposed petroleum lease application is to allow the use of incidental coal seam gas for a purpose other than mining under the proposed mining lease.³³⁶

332 Right to apply for petroleum lease

- (1) The person may apply for a petroleum lease for all or part of the land.
- (2) The area of the proposed petroleum lease need not comply with section 168(4) to (8).³³⁷

333 Requirements for making application

- (1) The petroleum lease application must—
 - (a) comply with the requirements under section 118³³⁸ for making an ATP-related application; and

336 See the Mineral Resources Act, section 318CN (Use that may be made under mining lease of incidental coal seam gas).

337 Section 168 (Area of petroleum lease)

338 Section 118 (Requirements for making ATP-related application)

- (b) include—
 - (i) a CSG statement;³³⁹ and
 - (ii) other information that addresses the CSG assessment criteria.
- (2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.³⁴⁰

334 No calls for tenders after application made

A call for tenders for a petroleum lease can not be made for the land if the petroleum lease application has not been decided.

335 Requirement to split application if it relates to coal or oil shale mining tenements not held by the same person

- (1) This section applies if the ATP-related application is—
 - (a) for land in the area of each of the following—
 - (i) the coal or oil shale exploration tenement (the *exploration tenement part*);
 - (ii) a coal or oil shale mining lease (the *mining lease part*); and
 - (b) the exploration tenement and the mining lease are not held by the same person.³⁴¹
- (2) The application must be treated as if it were separate applications for the exploration tenement part and the mining lease part.
- (3) The application for the exploration tenement part must be decided under this division.

339 See section 306 (Content requirements for CSG statement).

340 Part 6 (Additional provisions for development plans), division 1 (Initial development plans)

341 If the coal or oil shale exploration tenement and the coal or oil shale mining lease are held by the same person, see section 344(3) (Application of div 2).

- (4) The application for the mining lease part must be decided under part 3.³⁴²
- (5) Despite subsections (2) to (4) and any other provision of this part, no step may be taken in relation to deciding the applications until the relevant requirements for making them have been complied with.³⁴³
- (6) The applicant may amend each application to comply with the requirements.

336 Power to split application if it includes other land

- (1) This section applies if the petroleum lease application includes land (the *other part*) not in the area of a coal or oil shale mining tenement.
- (2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate petroleum lease application.
- (3) The separate application must be decided under chapter 2.³⁴⁴
- (4) Despite subsections (2) and (3) and any other provision of this part, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.³⁴⁵

337 Power to split application at applicant's request

- (1) The Minister may, at the applicant's request, decide to treat the application as if it were separate petroleum lease applications to allow them to be decided under this chapter or chapter 2, as the Minister considers appropriate.
- (2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

342 Part 3 (Obtaining petroleum lease over land in area of coal or oil shale mining lease)

343 For the applicants' power to amend, see section 844 (Amending applications).

344 Chapter 2 (Petroleum tenures and related matters)

345 For the applicants' power to amend, see section 844 (Amending applications).

338 Priority for earlier mining lease application or proposed application

Division 1, subdivision 5,³⁴⁶ applies for the petroleum lease application.

339 Priority for deciding earlier petroleum lease application

If, before the making of the petroleum lease application—

- (a) someone else has applied for a petroleum lease for the whole or part of the proposed area of the petroleum; and
- (b) the other application complies with section 305;³⁴⁷

the Minister must decide the other application first unless the petroleum lease applicant agrees otherwise.

340 Right to grant if particular requirements met

- (1) This section applies subject to sections 337 and 339.
- (2) If the application is an ATP-related application, the Minister must grant the petroleum lease if—
 - (a) the applicant is an eligible person; and
 - (b) the coal or oil shale exploration tenement holder has consented to the grant; and
 - (c) the requirements for grant have been complied with.
- (3) If the application is not an ATP-related application, the Minister must grant the petroleum lease if—
 - (a) the applicant is an eligible person; and
 - (b) either—
 - (i) the applicant has been granted a coal or oil shale mining lease over the proposed area of the petroleum lease; or
 - (ii) any preference decision required under the Mineral Resources Act for the coal or oil shale mining lease

346 Division 1, subdivision 5 (Priority for earlier coal or oil shale mining lease application or proposed application)

347 Section 305 (Additional requirements for making application)

application³⁴⁸ has been made and, under section 271³⁴⁹ of that Act, a decision has been made to recommend the applicant be granted a coal or oil shale mining lease for the land; and

- (c) the Minister is satisfied—
- (i) the requirements for grant, other than the requirement under section 121(1)(c),³⁵⁰ have been complied with; and
 - (ii) the conditions of the coal or oil shale exploration tenement have been substantially complied with.

Note—

If the area of the petroleum lease includes overlapping ATP land, the authority holder's written agreement is needed to carry out any authorised activity under the lease other than an activity related to incidental coal seam gas. See part 5, division 1.³⁵¹

341 Provisions of petroleum lease

- (1) If the petroleum lease application is granted, section 123³⁵² applies as if the application were an ATP-related application.
- (2) In deciding the provisions of the petroleum lease, the following matters must also be considered—
 - (a) the provisions recommended for the relevant mining lease;
 - (b) the development plan for the relevant mining lease;
 - (c) if the area of the petroleum lease will include land (*overlapping ATP land*) in the area of, or excluded land for, an authority to prospect or a 1923 Act ATP held by someone other than the petroleum lease holder—

348 For when a preference decision under the Mineral Resources Act is required, see section 318BA (When preference decision is required) of that Act.

349 Mineral Resources Act, section 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

350 Section 121 (Requirements for grant)

351 Part 5, division 1 (Restriction on authorised activities for particular petroleum leases)

352 Section 123 (Provisions of petroleum lease)

- (i) the legitimate business interests, rights and future development proposals of the authority to prospect holder; and
 - (ii) the likelihood of coordinated production of petroleum in relation to the overlapping ATP land being subject to an agreement under section 364(2).³⁵³
- (3) A relinquishment condition may be imposed.³⁵⁴
- (4) Subsection (3) does not limit any power under chapter 2 to impose conditions on the petroleum lease.

Division 3 Petroleum lease applications in response to Mineral Resources Act preference decision

342 Additional ground for refusing application

- (1) This section applies if—
- (a) a petroleum lease application is made in response to an invitation given under the Mineral Resources Act, section 318BG;³⁵⁵ and
 - (b) the application is made within 6 months after the giving of the invitation.³⁵⁶
- (2) The Minister may decide to refuse the application if satisfied the applicant has not, in a timely manner—
- (a) taken any step in relation to the application required of the applicant under chapter 2 or this chapter; or

353 Section 364 (Restriction on authorised activities on overlapping ATP land)

354 See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

355 Mineral Resources Act, section 318BG (Notice to applicant and authority to prospect holder)

356 If the application is not made within the 6 months, see the Mineral Resources Act, section 318BJ (No petroleum lease application).

- (b) satisfied the Minister about a matter that, under chapter 2 or this chapter, is required for the granting of the application.³⁵⁷
- (3) Subsection (2) does not limit another ground for refusing the application under chapter 2, this chapter or section 843.³⁵⁸

Part 3 Obtaining petroleum lease over land in area of coal or oil shale mining lease

Division 1 Exclusion of power to call for tenders

343 Exclusion

The Minister can not make a call for tenders for a petroleum lease for land in the area of a coal or oil shale mining lease.

Division 2 Petroleum lease application other than by or jointly with coal or oil shale mining lease holder

344 Application of div 2

- (1) This division applies if a person wishes to make an application for a petroleum lease for all or part of land in the area of a coal or oil shale mining lease.
- (2) However, this division does not apply if—
 - (a) the person is the mining lease holder; or

357 See section 340 (Right to grant if particular requirements met).

358 Chapter 2 (Petroleum tenures and related matters)

Section 843 (Additional information may be required about application)

- (b) the application is to be made jointly with the holder.³⁵⁹
- (3) If—
 - (a) the land is also in the area of a coal or oil shale exploration tenement; and
 - (b) the same person holds the mining lease and the exploration tenement;

a reference in this division to the mining lease holder includes a reference to the exploration tenement holder.³⁶⁰

345 Additional requirements for making application

- (1) The petroleum lease application must—
 - (a) comply with the requirements under section 118 for making an ATP-related application; and
 - (b) include a CSG statement.³⁶¹
- (2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.³⁶²

346 Power to split application if it includes other land

- (1) This section applies if the application includes land (the *other part*) not in the area of a coal or oil shale exploration tenement.
- (2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate petroleum lease application.
- (3) The separate application must be decided under chapter 2.

359 See division 3 (Petroleum lease application by or jointly with coal or oil shale mining lease holder).

360 If the coal or oil shale mining lease and the coal or oil shale exploration tenement are held by different persons, see section 307 (Requirement to split application if it relates to coal or oil shale mining tenements not held by the same person).

361 See section 306 (Content requirements for CSG statement).

362 Part 6 (Additional provisions for development plans), division 1 (Initial development plans)

347 Power to split application at applicant's request

- (1) The Minister may, at the applicant's request, decide to treat the application as if it were separate petroleum lease applications to allow them to be decided under this chapter or chapter 2, as the Minister considers appropriate.
- (2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

348 Notice to coal or oil shale mining lease holder

The applicant must, within 10 business days after making the application, give the coal or oil shale mining lease holder a copy of the application, other than any part of the application that relates to the capability criteria.³⁶³

349 Coal mining lease holder's or oil shale mining lease holder's obligation to negotiate

- (1) The coal or oil shale mining lease holder must, after receiving the copy of the application, make reasonable attempts to reach a coordination arrangement with the applicant about the following matters that provides the best resource use outcome without significantly affecting the parties' rights or interests—
 - (a) petroleum production under the proposed petroleum lease;
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.³⁶⁴
- (2) However, the obligation under subsection (1) applies only to the extent that a coordination arrangement is commercially and technically feasible for the mining lease holder.³⁶⁵

363 See also part 8 (Confidentiality of information).

364 For the extent to which coal seam gas production is permitted under the coal or oil shale mining lease, see the Mineral Resources Act, part 7AA, division 8, subdivision 1 (Entitlement to coal seam gas).

365 See also part 8 (Confidentiality of information).

350 Additional requirements for grant

- (1) The application may be granted only if—
 - (a) the applicant has negotiated, with the coal or oil shale mining lease holder, a proposed coordination arrangement (a *relevant arrangement*) about the following matters—
 - (i) petroleum production under the proposed petroleum lease;
 - (ii) coal or oil shale mining and any incidental coal seam gas under the mining lease; and
 - (b) the Minister has approved the relevant arrangement; and
 - (c) the applicant has made a safety management plan for all operating plant on, or proposed to be on, the area of the proposed petroleum lease;³⁶⁶ and
 - (d) the mining lease holder has agreed to the safety management plan and lodged a notice that the holder has agreed to the plan.
- (2) The Minister may decide to refuse the application if—
 - (a) the Minister is satisfied the applicant and the mining lease holder have, as required under section 349, made reasonable attempts to reach a relevant arrangement; and
 - (b) either—
 - (i) the mining lease holder has lodged a notice stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the mining lease holder have had a reasonable opportunity to make a relevant arrangement.
- (3) A notice under this section must be lodged at—

³⁶⁶ See also section 386 (Requirements for consultation with particular coal or oil shale mining tenement holders).

- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Division 3 Petroleum lease application by or jointly with coal or oil shale mining lease holder

351 Application of div 3

This division applies if a person as follows wishes to apply for a petroleum lease for all or part of the land in the area of a coal or oil shale mining lease that is not a specific purpose mining lease—

- (a) the coal or oil shale mining lease holder;
- (b) a person who wishes to make the application jointly with the holder.

352 Right to apply for petroleum lease

- (1) The person may apply for a petroleum lease for all or part of the land.
- (2) The area of the proposed petroleum lease need not comply with section 168(4) to (8).³⁶⁷

353 Requirements for making application

- (1) The petroleum lease application must—
 - (a) comply with the requirements under section 118³⁶⁸ for making an ATP-related application; and
 - (b) include a CSG statement.³⁶⁹

367 Section 168 (Area of petroleum lease)

368 Section 118 (Requirements for making ATP-related application)

369 See section 306 (Content requirements for CSG statement).

- (2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.³⁷⁰

354 Power to split application if it includes other land

- (1) This section applies if petroleum lease application includes land (the *other part*) not in the area of a coal or oil shale mining tenement.
- (2) The Minister may decide to treat the application to the extent it applies to the other part as if it were a separate petroleum lease application.
- (3) The separate application must be decided under chapter 2.³⁷¹
- (4) Despite subsections (2) and (3) and any other provision of this part, no step may be taken in relation to deciding the applications until the relevant requirements for making them have been complied with.³⁷²

355 Power to split application at applicant's request

- (1) The Minister may, at the applicant's request, decide to treat the petroleum lease application as if it were separate petroleum lease applications to allow them to be decided under this chapter or chapter 2, as the Minister considers appropriate.
- (2) However, no step may be taken in relation to the deciding of the applications until the relevant requirements for making them have been complied with.

356 Right to grant if particular requirements met

The Minister must grant the petroleum lease if—

370 Part 6 (Additional provisions for development plans), division 1 (Initial development plans)

371 Chapter 2 (Petroleum tenures and related matters)

372 For the applicants' power to amend, see section 844 (Amending applications).

- (a) the applicant is an eligible person; and
- (b) the Minister is satisfied—
 - (i) the requirements for grant, other than the requirement under section 121(1)(c),³⁷³ have been complied with; and
 - (ii) the conditions of the coal or oil shale mining lease have been substantially complied with.

Note—

If the area of the petroleum lease includes overlapping ATP land, the authority holder's written agreement is needed to carry out any authorised activity under the lease other than an activity related to incidental coal seam gas. See part 5, division 1.³⁷⁴

357 Provisions of petroleum lease

- (1) Section 123³⁷⁵ applies to the granting of the lease as if the petroleum lease application were an ATP-related application.
- (2) In deciding the provisions of the petroleum lease, the following matters must also be considered—
 - (a) the conditions of the relevant mining lease;
 - (b) the development plan for the relevant mining lease;
 - (c) if the area of the petroleum lease will include overlapping ATP land—
 - (i) the legitimate business interests, rights and future development proposals of the authority to prospect holder; and
 - (ii) the likelihood of coordinated production of petroleum in relation to the overlapping ATP land being subject to an agreement under section 364(2).³⁷⁶

373 Section 121 (Requirements for grant)

374 Part 5, division 1 (Restriction on authorised activities for particular petroleum leases)

375 Section 123 (Provisions of petroleum lease)

376 Section 364 (Restriction on authorised activities on overlapping ATP land)

- (3) A relinquishment condition may be imposed.³⁷⁷
- (4) Subsection (3) does not limit any power under chapter 2 to impose conditions on the petroleum lease.

Part 4 **Additional provisions for authorities to prospect and data acquisition authorities**

Division 1 **Grant of authority to prospect in area of coal or oil shale exploration tenement**

358 **Provisions for authority to prospect**

- (1) The Mineral Resources Act does not limit or otherwise affect the power under this Act to grant an authority to prospect over land (the *overlapping land*) in the area of a coal or oil shale exploration tenement.
- (2) However, an authorised activity for the authority to prospect can not be carried out on the overlapping land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the coal or oil shale exploration tenement; and
 - (b) the authorised activity for the coal or oil shale exploration tenement has already started.

³⁷⁷ See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

Division 2 Restriction on authorised activities on coal mining lease or oil shale mining lease land

359 Application of div 2

This division applies if land in the area of a coal or oil shale mining lease is—

- (a) in the area of an authority to prospect; or
- (b) subject to a data acquisition authority.

360 Restriction

- (1) An authorised activity for the authority may be carried out on the land only if—
 - (a) the mining lease holder has agreed in writing to the carrying out of the activity and to the safety management plan of the authority holder; and
 - (b) a copy of the agreement has been lodged at—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (c) the agreement is still in force.³⁷⁸
- (2) Subsection (1) does not apply, or ceases to apply, if the same person holds the authority and the mining lease.

³⁷⁸ See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

Division 3 Exceptions to particular area provisions

361 Exceptions

Section 98(4) and 101 do not apply for an authority to prospect if the petroleum lease is granted under part 2, division 2 or part 3, division 3.³⁷⁹

Division 4 Conditions

362 Notice to coal or oil shale exploration tenement holders and applicants

- (1) This section applies if, when an authority to prospect is granted, land in the area of the authority is in the area of a coal or oil shale exploration tenement or a proposed area under a coal or oil shale exploration tenement application.
- (2) It is a condition of the authority that its holder must, within 20 business days after the holder receives notice of the grant, give the tenement holder or the applicant notice stating—
 - (a) that the authority has been granted; and
 - (b) the authority holder's name; and
 - (c) the term of the authority.

379 Sections 98 (Area of authority to prospect) and 101 (Area of authority to prospect reduced on grant of petroleum lease)

Part 2, division 2 (Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder)

Part 3, division 3 (Petroleum lease application by or jointly with coal or oil shale mining lease holder)

363 Compliance with obligations under Mineral Resources Act

If an obligation under the Mineral Resources Act, section 318AW or 318DB,³⁸⁰ applies to an authority to prospect holder, it is a condition of the authority that the holder must comply with the obligation.

Part 5 Additional provisions for petroleum leases**Division 1 Restriction on authorised activities for particular petroleum leases****364 Restriction on authorised activities on overlapping ATP land**

- (1) This section applies if—
- (a) the area of a petroleum lease includes overlapping ATP land; and
- Note—*
- Overlapping ATP land includes land in the area of the lease that is excluded land for the authority to prospect. See sections 341(2)(c) and 357(2)(c).³⁸¹
- (b) the petroleum lease was, under section 340 or 356,³⁸² granted to someone other than the relevant authority to prospect holder.
- (2) The petroleum lease holder may carry out an authorised activity for the petroleum lease on the overlapping ATP land only if—

380 Mineral Resources Act, section 318AW (Authority to prospect holder's obligations) or 318DB (Authority to prospect holder's obligation to negotiate)

381 Sections 341 and 357 (Provisions of petroleum lease)

382 Section 340 (Right to grant if particular requirements met) or 356 (Right to grant if particular requirements met)

- (a) the authority to prospect holder has agreed in writing to the carrying out of the activity and—
 - (i) a copy of the agreement has been lodged at the relevant office; and
 - (ii) the agreement is still in force; or
- (b) the activity relates to incidental coal seam gas mined or to be mined within the mine working envelope.³⁸³

(3) In this section—

mine working envelope means land that—

- (a) is in the area of a coal mining lease or an oil shale mining lease the area of which includes the overlapping ATP land; and
- (b) covers any of the following or is needed for post-production activities—
 - (i) past mine workings;
 - (ii) current mine workings;
 - (iii) mine workings scheduled to be mined within the next 5 years;
 - (iv) authorised activities for the mining lease associated with the processing, transportation, storage and use of the incidental coal seam gas produced.

relevant office means—

- (a) the office of the department for lodging agreements mentioned in subsection (2)(a), as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

383 See also section 934 (Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases).

Division 2 Conditions

365 **Continuing requirement for coordination arrangement for particular petroleum leases**

- (1) This section applies if—
 - (a) a petroleum lease is granted over land in the area of a coal or oil shale mining lease and the application for the petroleum lease was not made by or jointly with the mining lease holder; or
 - (b) a petroleum lease holder is a party to a coordination arrangement mentioned in section 379.³⁸⁴
- (2) It is a condition of the petroleum lease that—
 - (a) its holder must continue to be party to a relevant coordination arrangement; and
 - (b) authorised activities for the petroleum lease must not be carried out if there is no relevant coordination arrangement.³⁸⁵
- (3) In this section—

relevant coordination arrangement means a coordination arrangement with the mining lease holder about—

 - (a) petroleum production under the petroleum lease; and
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

384 Section 379 (Requirement for coordination arrangement to transfer petroleum lease in tenure area of mining lease)

385 For subleases under a coordination arrangement, see section 238 (Subleasing of 1923 Act lease provided for under coordination arrangement).

366 Compliance with obligation to negotiate with coal or oil shale mining lease applicant

If the obligation under the Mineral Resources Act, section 318CA,³⁸⁶ applies to a petroleum lease holder, it is a condition of the lease that the holder must comply with the obligation.

367 Requirement for giving of copy of relinquishment report

- (1) This section applies if—
- (a) a petroleum lease holder has, under section 545,³⁸⁷ given a report about a relinquishment of part of the area of the lease; and
 - (b) immediately before the relinquishment, the part included land in the area of a coal or oil shale exploration tenement.
- (2) The petroleum lease holder must give a copy of the report to—
- (a) the coal or oil shale exploration tenement holder; and
 - (b) anyone else who has applied for a mining lease for the part.

Maximum penalty—150 penalty units.

368 Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

If—

- (a) a petroleum lease contains a relinquishment condition; and
- (b) all or part of the area of the lease ceases to be in the area of a coal or oil shale exploration tenement (the *relevant land*);

the condition ceases to apply for the relevant land.

386 Mineral Resources Act, section 318CA (Petroleum lease holder's obligation to negotiate)

387 Section 545 (Relinquishment report by tenure holder)

Division 3 Amendment of relinquishment condition by application

Subdivision 1 Preliminary

369 Application of div 3

This division applies if a petroleum lease contains a relinquishment condition and all or part of the area of the lease is in the area of a coal or oil shale exploration tenement.

Subdivision 2 Making application to amend relinquishment condition

370 Conditions for applying to amend

- (1) The petroleum lease holder may apply for the Minister to amend the condition if the applicant has, before making the application—
 - (a) made reasonable attempts to consult with the coal or oil shale exploration tenement holder about—
 - (i) the proposed amendment; and
 - (ii) a proposed later development plan for the lease; and
 - (b) changed the proposed amendment and the proposed later development plan to give effect to any reasonable proposal by the tenement holder that will optimise—
 - (i) petroleum production under the amended petroleum lease; and
 - (ii) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land.
- (2) However, subsection (1)(b) applies only to the extent the provisions are commercially and technically feasible for the applicant.

371 Obligation of coal or oil shale exploration tenement holder to negotiate

The coal or oil shale exploration tenement holder must, if asked by the petroleum lease holder, make reasonable attempts to reach an agreement with the petroleum lease holder about the matters mentioned in section 370(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.³⁸⁸

372 Requirements for making application

- (1) The application must—
 - (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state whether or not the development plan for the petroleum lease has been complied with; and
 - (d) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and
 - (e) include a CSG statement; and
 - (f) include a proposed later development plan for the lease as amended under section 370; and
 - (g) include a statement about each of the following—
 - (i) the details of the consultation carried out under section 370(1)(a);
 - (ii) the results of the consultation;

³⁸⁸ See also part 8 (Confidentiality of information).

- (iii) whether the proposed development plan includes all provisions proposed by the coal or oil shale exploration tenement holder under section 370(1)(b);
 - (iv) if the proposed development plan does not include a provision proposed by the tenement holder—why it was not included;
 - (v) the applicant’s assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—
 - (A) petroleum production under the amended petroleum lease; and
 - (B) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land that may be granted to the tenement holder; and
 - (h) be accompanied by the fee prescribed under a regulation.
- (2) However, the CSG statement need not include a proposed safety management plan.

373 Notice of application

The applicant must immediately after making the application give the coal or oil shale exploration tenement holder a copy of the application.

Subdivision 3 Deciding amendment application

374 Submissions by coal or oil shale exploration tenement holder

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the application at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.³⁸⁹
- (2) However, the submissions may be lodged only within 20 business days after the holder is, under section 373, given a copy of the application.
- (3) The submissions may include—
 - (a) information about all or any of the following—
 - (i) exploration carried out under the tenement;
 - (ii) the results of the exploration;
 - (iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; or
 - (b) a proposal by the tenement holder for the development of coal or oil shale in the land; or
 - (c) information relevant to the CSG assessment criteria.
- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the application, regard must be had to the submissions.

375 Minister may require further negotiation

- (1) The Minister may, by notice, require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 370(1)(b).³⁹⁰
- (2) The applicant must use all reasonable attempts to comply with the requirement.
- (3) If the Minister is reasonably satisfied the applicant has not complied with the requirement the Minister may decide to refuse the application.

389 See also part 8 (Confidentiality of information).

390 Section 370 (Conditions for applying to amend)

376 Deciding amendment application

- (1) Before deciding to grant the application, the Minister must decide whether to approve the applicant's proposed later development plan for the petroleum lease.
- (2) The application can not be granted unless the proposed plan has been approved.
- (3) Chapter 2, part 2, division 4³⁹¹ applies for deciding whether to approve the proposed plan.
- (4) The matters that must be considered in deciding the application include each of the following—
 - (a) the CSG assessment criteria;
 - (b) whether the applicant has taken all reasonable steps to comply with the relinquishment condition;
 - (c) the effect of any approval of later development plans for the petroleum lease;
 - (d) any submissions under section 374 lodged within the period mentioned in section 374(2).
- (5) After the application has been decided, the applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.

Division 4 Restriction on amendment of other conditions**377 Interests of relevant coal or oil shale mining tenement holder to be considered**

A condition of a petroleum lease must not be amended under section 848³⁹² unless the interests of any relevant coal or oil shale mining tenement holder have been considered.

391 Chapter 2, part 2, division 4 (Development plans)

See also part 6 (Additional provisions for development plans), division 2 (Later development plans).

392 Section 848 (Power to correct or amend)

Division 5 Renewals

378 **Applied provisions for making and deciding renewal application**

- (1) The adopted provisions apply for a renewal application for a petroleum lease—
 - (a) as if the petroleum lease holder had lodged a proposed later development plan for the Minister to approve; and
 - (b) as if a reference in the adopted provisions—
 - (i) to the application were a reference to the renewal application; and
 - (ii) to a petroleum lease were a reference to the renewed petroleum lease; and
 - (iii) to a proposed initial development plan, an initial development plan, a proposed development plan or a development plan were a reference to a proposed later development plan or a later development plan; and
 - (iv) in section 314(5), to the ATP-related application were a reference to the conditions of the renewed lease.
- (2) In this section—

adopted provisions means—

 - (a) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale exploration tenement—part 2, division 1, subdivisions 2 and 4;³⁹³ or
 - (b) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale mining lease and the coal or oil shale mining lease holder is not a holder of

393 Part 2, division 1 (Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder), subdivisions 2 (Provisions for making petroleum lease application) and 4 (Obligations of applicant and coal or oil shale exploration tenement holder)

the petroleum lease—part 3, division 2 (other than sections 346 and 347);³⁹⁴ or

- (c) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale mining lease and the coal or oil shale mining lease holder holds the petroleum lease—part 3, division 3 (other than sections 354 and 355).³⁹⁵

Division 6 Restrictions on particular transfers

379 Requirement for coordination arrangement to transfer petroleum lease in tenure area of mining lease

- (1) This section applies, despite chapter 5, part 10, if land is in the area of a petroleum lease and a coal or oil shale mining lease.
- (2) A transfer of the petroleum lease must not be approved under chapter 5, part 10 unless the proposed transferee and the mining lease holder are parties to a coordination arrangement about—
- (a) petroleum production under the petroleum lease; and
 - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

394 Part 3, division 2 (Petroleum lease application other than by or jointly with coal or oil shale mining lease holder)

395 Part 3, division 3 (Petroleum lease application by or jointly with coal or oil shale mining lease holder)

Part 6 Additional provisions for development plans

Division 1 Initial development plans

Subdivision 1 Additional requirements for proposed initial development plan

380 Operation of sdiv 1

This subdivision provides for additional requirements for a proposed initial development plan for a petroleum lease applied for under chapter 2 or this chapter.³⁹⁶

381 Statement about interests of coal or oil shale mining tenement holder

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

- (a) the main purposes of this chapter;³⁹⁷ and
- (b) the CSG assessment criteria.

382 Requirement to optimise petroleum production

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

³⁹⁶ For other development plan requirements, see chapter 2, part 2, division 4, subdivision 2 (Requirements for proposed initial development plans).

³⁹⁷ See section 295 (Main purposes of ch 3).

383 Consistency with coal or oil shale mining lease development plan and relevant coordination arrangement

If all or part of the area of the proposed petroleum lease is in the area of a coal or oil shale mining lease (the *relevant land*), the proposed plan must, to the extent it applies to the relevant land, be consistent with—

- (a) the development plan for the mining lease; and
- (b) any coordination arrangement relating to the relevant land.

Subdivision 2 Other additional provisions**383A Application of sdiv 2**

This subdivision applies if—

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

383B Additional criteria for approval

The matters that must be considered include the CSG assessment criteria.

383C Restriction on approval

The proposed plan can not be approved unless the applicant for the proposed lease has complied with the obligations under section 310(1)(b).³⁹⁸

398 Section 310 (Applicant's obligations)

Division 2 Later development plans**Subdivision 1 Additional requirements for
proposed later development plans****383D Additional requirements under div 1, sdiv 1 apply**

A proposed later development plan for a petroleum lease must comply with the additional requirements under sections 381 to 383 for a proposed initial development plan for a petroleum lease.

Subdivision 2 Other additional provisions**384 Additional criteria**

- (1) This section applies if—
 - (a) the Minister is considering whether to approve a proposed later development plan for a petroleum lease; and
 - (b) the area of the petroleum lease includes all or part of the area of a coal mining tenement or oil shale mining tenement.
- (2) The matters that must be considered also include—
 - (a) the CSG assessment criteria; and
 - (b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.³⁹⁹

³⁹⁹ See also section 148 (Power to require relinquishment).

Part 7 **Additional provisions for safety management plan**

385 Grant of petroleum lease does not affect obligation to make plan

- (1) This section applies if a CSG statement accompanies an application for a petroleum lease, as required under this chapter.
- (2) The deciding of the application or the grant of the lease—
 - (a) does not affect the obligation under section 674 to make a safety management plan for any operating plant in the area of the lease; and
 - (b) is not, of itself, evidence that a safety management plan, or purported safety management plan, for an operating plant on the area of the petroleum lease complies with section 388 or 675.⁴⁰⁰

386 Requirements for consultation with particular coal or oil shale mining tenement holders

- (1) This section applies if—
 - (a) any person (an *operator*) who proposes to be an operator of operating plant used to explore for, extract, produce, release or transport petroleum (*relevant operating plant*); and
 - (b) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient mining of coal in the area of a coal or oil shale mining tenement.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult

⁴⁰⁰ Section 388 (Additional content requirements) or 675 (Content requirements for safety management plans)

with the tenement holder about relevant activities for the plant.

- (3) If there is more than 1 operator, the tenement holder may coordinate the consultation with the operators.
- (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
 - (a) the operator gives the tenement holder a copy of the relevant parts, mentioned in section 306(2)(a), of the operator's proposed safety management plan for any relevant operating plant the operator proposes to operate; and
 - (b) the tenement holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.⁴⁰¹
- (5) An operator must, before making or re-making a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the tenement holder that relate to relevant activities for the plant.
- (6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.
- (7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the tenement holder, the operator must—
 - (a) give the tenement holder a copy; and
 - (b) lodge at the following office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief inspector;

⁴⁰¹ For the making of the safety management plan, see section 674 (Requirement to have safety management plan).

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.

(8) In this section—

re-making, a safety management plan, includes an amendment or remaking of the plan of a type required under section 678.⁴⁰²

387 Resolving disputes about provision proposed by coal or oil shale exploration tenement holder

- (1) This section applies if a dispute exists between an operator under section 386 and a coal or oil shale mining tenement holder about the reasonableness of a provision proposed by the tenement holder for the operator's proposed safety management plan.
- (2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.
- (3) The referral must be—
 - (a) written; and
 - (b) lodged at the following office (the *relevant office*)—
 - (i) the office of the department for lodging the referral, as stated in a gazette notice by the chief inspector;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge at the relevant office submissions about the dispute.
- (5) The chief inspector's decision binds each party to the dispute.
- (6) The chief inspector must give each party an information notice about the decision.
- (7) The chief inspector's decision is not, of itself, evidence that a safety management plan, or purported safety management

402 Section 678 (When safety management plan must be revised)

plan, for an operating plant complies with section 388 or 675.⁴⁰³

388 Additional content requirements

- (1) Subject to any exemption granted under section 389, a safety management plan for an operating plant used to explore for, extract, produce or release petroleum within coal seams being completed or tested must include—
 - (a) an identification and description of all activities carried out, or proposed to be carried out, at the plant that may adversely affect the safe and efficient mining, or future mining, of coal; and
 - (b) proposed measures to mitigate the risks to safe and efficient mining, or future mining, of mining coal seams to an acceptable level of risk; and
 - (c) an assessment of the potential risks the activities may cause to the safe and efficient mining, or future mining, of coal.
- (2) The proposed measures must comply with—
 - (a) good industry practice; and
 - (b) any relevant safety requirement; and
 - (c) protocols or standards prescribed under a regulation.
- (3) A regulation may prescribe—
 - (a) what is good industry practice; and
 - (b) matters to which regard must be had in deciding what is good industry practice.

389 Exemption from additional content requirements

- (1) The chief inspector may grant an operator, or proposed operator, of an operating plant an exemption from complying with a stated requirement, or a stated part of a requirement, under section 388 for—

403 Section 675 (Content requirements for safety management plans)

- (a) a stated petroleum tenure; or
 - (b) a stated coal seam.
- (2) The operator, or proposed operator, may apply for the exemption.
- (3) The application must be—
- (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging the application, as stated in a gazette notice by the chief inspector; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief inspector.
- (4) The chief inspector must, after receiving the application, give any relevant coal or oil shale exploration tenement holder—
- (a) a copy of the application; and
 - (b) a notice stating the holder may, within 20 business days after receiving the notice, lodge submissions about the application at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief inspector; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- (5) The holder must give the applicant a copy of any submissions lodged by the holder within the 20 business days.
- (6) The chief inspector must—
- (a) consider any submissions lodged by the holder within the 20 business days; and
 - (b) give the applicant at least 20 business days after the lodging of the holder's submissions to respond to them in writing; and
 - (c) consider any written response made under paragraph (b).

- (7) The application must not be decided unless subsection (5) has been complied with.
- (8) In deciding the application the chief inspector—
 - (a) must have regard to the purposes of this chapter;⁴⁰⁴ and
 - (b) may seek advice or recommendations from a technical advisory committee established under section 732B⁴⁰⁵ for coal seam gas; and
 - (c) must consider the committee's advice or recommendations.
- (9) However, before the giving of the advice or recommendations, the members of the committee must declare whether they have any conflict of interest in relation to the application.
- (10) If any member declares the member has a conflict of interest, an alternate member may be appointed to substitute for the member when the advice or recommendation is considered.
- (11) The applicant must be given notice of the decision.

Part 8 Confidentiality of information

390 Application of pt 8

- (1) This part applies if a tenure holder or a person who has applied for a tenure (the *information-giver*) gives another tenure holder or a person who has applied for a tenure (the *recipient*) information—
 - (a) that this chapter requires the information-giver to give the recipient, including, for example, information given to comply with section 313(a);⁴⁰⁶ or
 - (b) for the purposes of this chapter.

404 See section 295 (Main purposes of ch 3).

405 Section 732B (Technical advisory committees)

406 Section 313 (Obligations of coal or oil shale exploration tenement holder)

- (2) However, this part applies subject to any agreement between the information-giver and the recipient about the information or its use.
- (3) In this section—
- information* means information given verbally or in writing.
- tenure* means a petroleum tenure or a coal or oil shale mining tenement.

391 Confidentiality obligations

- (1) The recipient must not disclose the information to anyone else, unless—
- (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) to someone whom the recipient has authorised to carry out the authorised activities for the recipient's petroleum tenure or coal or oil shale mining tenement; or
 - (ii) made with the information-giver's consent; or
 - (iii) expressly permitted or required under this or another Act; or
 - (iv) to the Minister.
- (2) The recipient may use the information only for the purpose for which it is given.

392 Civil remedies

If the recipient does not comply with section 391, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

- (a) compensation for any loss the information-giver incurred because of the failure to comply with the section;
- (b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

Chapter 4 Licences and related matters

Note—

For when a licence is required, see sections 802 and 803.⁴⁰⁷

Part 1 Survey licences

Division 1 Key authorised activities

393 Purpose of div 1

The purpose of this division is to allow access to land for activities under section 394 that involve minimal impact on or disturbance of the land.⁴⁰⁸

394 Surveying activities

- (1) A survey licence holder may enter the area of the licence to—
 - (a) investigate and survey its potential and suitability for the construction and operation of pipelines or petroleum facilities; and
 - (b) identify possible pipeline routes and pipeline or petroleum facility access routes.
- (2) The carrying out of activities mentioned in subsection (1) is subject to—
 - (a) section 6; and
 - (b) chapter 5; and
 - (c) the mandatory and other conditions of the licence; and

⁴⁰⁷ Sections 802 (Restriction on pipeline construction or operation) and 803 (Restriction on petroleum facility construction or operation)

⁴⁰⁸ For other authorised activities, see chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

- (d) any exclusion or restriction provided for in the licence on the carrying out of the activities.⁴⁰⁹

Division 2 Obtaining survey licence

395 Applying for licence

- (1) A person may apply for a survey licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) be lodged at—
 - (i) the office of the department for lodging survey licence applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) state each of the following—
 - (i) the type of pipeline or petroleum facility the applicant proposes to construct and operate;
 - (ii) the proposed use of the pipeline or facility;
 - (iii) for a proposed pipeline—its terminal points;
 - (iv) the period for which the licence is sought;
 - (v) the extent and nature of activities to be carried out under the licence; and
 - (d) address the criteria mentioned in section 397; and
 - (e) be accompanied by the fee prescribed under a regulation.

409 Section 6 (Relationship with Mineral Resources Act)

Chapter 3 (Provisions for coal seam gas), part 4, division 2 (Restriction on authorised activities on coal mining lease or oil shale mining lease land)

Chapter 5 (Common petroleum authority provisions)

396 Deciding application

- (1) The Minister may decide to grant or refuse the survey licence.
- (2) However, the licence can not be granted unless—
 - (a) the applicant is an eligible person; and
 - (b) a relevant environmental authority for the licence has been issued.
- (3) The licence must state its term and area.
- (4) The term must end no later than 1 year after the licence takes effect.
- (5) The licence may also state—
 - (a) conditions or other provisions of the licence not inconsistent with the mandatory conditions for survey licences; or
 - (b) a day for the licence to take effect.
- (6) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.
- (7) If no day of effect is decided, the licence takes effect on the day it is granted.

Note—

Chapter 5 also imposes mandatory conditions on survey licences. In particular, see chapter 5, part 2, division 3 and chapter 5, part 8.⁴¹⁰

397 Criteria for decisions

The matters that must be considered in deciding whether to grant a survey licence or deciding its provisions include the applicant's—

- (a) financial and technical resources; and
- (b) ability to manage a survey to work out the suitability of the area of the licence for the pipeline or petroleum facility the applicant proposes to construct and operate.

⁴¹⁰ Chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities)

Part 2 Pipeline licences⁴¹¹

Division 1 Key authorised activities

Subdivision 1 Preliminary

398 Operation of div 1

- (1) This division provides for the key authorised activities for a pipeline licence.⁴¹²
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) subdivision 2; and
 - (b) chapter 5;⁴¹³ and
 - (c) the mandatory and other conditions of the licence; and
 - (d) any exclusion or restriction provided for in the licence on the carrying out of the activities.

399 What is *pipeline land* for a pipeline licence

- (1) *Pipeline land*, for a pipeline licence, is land—
 - (a) that the licence holder owns; or
 - (b) over which the holder—
 - (i) holds an appropriate easement for the construction or operation of the pipeline; or

411 For what is a pipeline, see section 16 (What is a *pipeline*).

For when a pipeline licence is required for a pipeline, see section 802 (Restriction on pipeline construction or operation).

412 For other authorised activities, see chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

413 Chapter 5 (Common petroleum authority provisions)

- (ii) has obtained the owner's written permission to enter to construct or operate the pipeline; or
 - (iii) holds a part 5⁴¹⁴ permission to enter to construct or operate the pipeline.
- (2) To remove any doubt, it is declared that—
- (a) the granting of a pipeline licence does not, of itself, create an easement for the construction or operation of the pipeline; and
 - (b) the giving of a waiver of entry notice is not, of itself, a permission for subsection (1)(b)(ii).

Subdivision 2 General restriction on authorised activities

400 Restriction if there is an existing mining lease

If land in the area of a pipeline licence is also in the area of a mining lease and the mining lease was granted before the licence, an authorised activity for the licence may be carried out on the land only if—

- (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
- (b) a copy of the agreement has been lodged at—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the agreement is still in force.

414 Part 5 (Permission to enter land to exercise rights under a pipeline or petroleum facility licence)

Subdivision 3 Pipeline construction and operation

401 Construction and operation of pipeline

- (1) The holder of a pipeline licence may construct or operate each pipeline the subject of the licence on—
 - (a) pipeline land for the licence; and
 - (b) subject to division 6,⁴¹⁵ public land in the area of the licence.⁴¹⁶
- (2) However, if native title exists in relation to land mentioned in subsection (1)(b), the holder must have or hold an interest or permission mentioned in section 399(1)(b)⁴¹⁷ for the native title rights and interests.
- (3) To remove any doubt, it is declared that the mere grant of the licence does not, of itself, authorise the construction or operation of a pipeline on other land in the area of the licence.

402 Licence may extend transportation right to other prescribed substances

- (1) A condition of a pipeline licence may extend its holder's right under section 401 to operate any pipeline in the area of the licence to include the transportation of a substance prescribed under a regulation.
- (2) However, a substance may be prescribed only if it is similar to petroleum and is suitable for transportation by the pipeline.
- (3) The condition may impose restrictions on the extended right.

415 Division 6 (Provisions for public land authorities)

See also section 802 (Restriction on pipeline construction or operation).

For who may exercise the rights for the holder, see section 563 (Who may carry out authorised activity for petroleum authority holder).

416 For who owns the pipeline, see chapter 5, part 6 (Ownership of pipelines, equipment and improvements).

417 Section 399 (What is *pipeline land* for a pipeline licence)

403 Incidental activities

- (1) This section applies if, under section 401, a pipeline licence holder has the right to construct or operate a pipeline.
- (2) The holder may carry out an activity (an *incidental activity*) in the area of the licence if carrying out the activity is reasonably necessary for the construction or operation.⁴¹⁸

Examples of incidental activities—

- 1 constructing or operating plant or works, including, for example, bridges, powerlines, roads, trenches and tunnels
 - 2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps
 - 3 removing vegetation for, or for the safety of, the pipeline construction or operation
- (3) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.⁴¹⁹

Division 2 Availability of pipeline licences**404 Licence types—area or point to point**

- (1) A pipeline licence may be granted—
 - (a) over a stated area (an *area pipeline licence*); or
 - (b) for a pipeline from one stated point or points to another point or points (a *point-to-point pipeline licence*).
- (2) However, an area pipeline licence can not be granted for a transmission pipeline.

418 See also chapter 5 (Common petroleum authority provisions) and section 20 (What are the *conditions* of a petroleum authority).

419 For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

405 Pipeline licence can not be granted for distribution pipeline

A pipeline licence under this Act can not be granted for a distribution pipeline.

406 Pipeline licence may be granted over any land

A pipeline licence may be granted over any land, including land in the area of another petroleum authority.

Division 3 Obtaining pipeline licence**Subdivision 1 Applying for pipeline licence****407 Who may apply and multiple licence applications**

- (1) A person may apply for a pipeline licence.
- (2) However, a person can not, in the same application, apply for—
 - (a) a point-to-point pipeline licence for more than 1 point-to-point pipeline; or
 - (b) an area pipeline licence for more than 1 area; or
 - (c) a point-to-point pipeline licence and an area pipeline licence.

408 Notice of proposed application to relevant local government

- (1) This section does not apply if the application is for an existing pipeline.
- (2) The applicant must, before making the application, give each relevant local government a notice stating the application details under section 409(c) for the proposed application.
- (3) In this section—

relevant local government means a local government in whose local government area pipelines are proposed to be constructed under the licence.

409 Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office of the department for lodging pipeline licence applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state each of the following (the **application details**)—
 - (i) a description of the land in the area of the licence;
 - (ii) the type and purpose of each pipeline to be the subject of the licence and each substance proposed to be transported through it;
 - (iii) for a point-to-point pipeline licence—
 - (A) the pipeline's terminal points; and
 - (B) if the pipeline has not already been constructed—a proposed day for the completion of the construction of the pipeline;
 - (iv) for an area pipeline licence other than to the extent the application is for existing pipelines—a proposed day for the completion of the construction of each initial pipeline mentioned in the licence;
 - (v) the extent and nature of activities proposed to be carried out under the licence; and

- (d) include a statement about how and when the applicant proposes to consult with, and keep informed, owners and occupiers of—
 - (i) private or public land on which the activities are proposed to be carried out; or
 - (ii) access land for the proposed licence;⁴²⁰ and
- (e) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—identify possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest; and
- (f) if the application is not for an existing pipeline—include a statement that section 408 has been complied with; and
- (g) address the criteria mentioned in section 415(a); and
- (h) be accompanied by the fee prescribed under a regulation.

Subdivision 2 Deciding pipeline licence application

410 Deciding whether to grant licence

- (1) The Minister may—
 - (a) subject to sections 411 and 412A, grant the applicant a pipeline licence only if—
 - (i) the applicant is an eligible person; and
 - (ii) a relevant environmental authority for the licence has been issued;⁴²¹ and

420 See section 418 (Obligation to consult with particular owners and occupiers).

421 See also section 415 (Criteria for decisions).

- (b) before granting the licence, require the applicant to do all or any of the following within a stated reasonable period—
 - (i) pay the licence fee for the first year of the proposed licence;
 - (ii) give, under section 488,⁴²² security for the licence.
- (2) If the applicant does not comply with a requirement under subsection (1), the Minister may refuse to grant the licence.

411 Public notice requirement

- (1) The Minister must not grant the applicant a pipeline licence unless—
 - (a) a notice stating each of the following has been gazetted and published in a relevant newspaper—
 - (i) that an application for a pipeline licence has been made;
 - (ii) the applicant's name;
 - (iii) the area proposed for the licence;
 - (iv) where further details about the application can be obtained;
 - (v) a period of at least 30 business days during which anyone may lodge submissions about the application at—
 - (A) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (B) if no office is gazetted under subparagraph (A)—the office of the chief executive; and
 - (b) the Minister has considered any submissions lodged under paragraph (a)(v) within the stated period.
- (2) In this section—

422 Section 488 (Power to require security for petroleum authority)

relevant newspaper means a newspaper circulating—

- (a) throughout the State; or
- (b) if the proposed licence is an area pipeline licence—generally, in the area.

412 Provisions of licence

- (1) Each pipeline licence must state—
 - (a) its term and area;⁴²³ and
 - (b) for a point-to-point pipeline licence—the day for completion of the construction of the pipeline, if it has not already been constructed;
 - (c) for an area pipeline licence—the day for completion of the construction of each initial pipeline to be the subject of the licence, if they have not already been constructed.
- (2) Subject to section 413, the licence may also state—
 - (a) conditions or other provisions of the licence, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for pipeline licences;⁴²⁴ or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and
 - (b) review days for the licence;⁴²⁵ and
 - (c) the day it takes effect.
- (3) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.

423 See also section 414 (Provision for reduction of area of licence).

424 For mandatory conditions, see division 4 (Key mandatory conditions for pipeline licences) and chapter 5, part 8 (General provisions for conditions and authorised activities).

425 For the consequences of a pipeline licence having review days, see division 7 (Ministerial review of pipeline licence conditions).

- (4) If no day of effect is stated, the licence takes effect on the day it is granted.
- (5) This section applies subject to section 412A.

412A Provisions about grant and conditions of licence for significant project

- (1) This section applies if a pipeline licence or proposed pipeline licence is for a significant project.
- (2) The Minister must not grant the licence until the Minister has been given the Coordinator-General's report for the project.
- (3) Any Coordinator-General's conditions for the licence must be stated in the licence.
- (4) Any other condition of the licence stated under section 412 must not be inconsistent with the Coordinator-General's conditions.
- (5) If a mandatory condition for pipeline licences conflicts with any of the Coordinator-General's conditions, the Coordinator-General's condition prevails to the extent of the inconsistency.

413 Restriction on imposing takeover condition

- (1) A pipeline licence may include a condition (a *takeover condition*) that takeover action may be taken on grounds, or in circumstances, stated in the licence only if—
 - (a) the licence is a point-to-point pipeline licence; and
 - (b) the Minister is satisfied—
 - (i) an appropriate competitive tender process has been carried out to select the developer for the pipeline; and
 - (ii) a contract to which the State and the applicant are parties provides for the imposition of the condition.
- (2) In this section—

takeover action means doing 1 or more of the following—

- (a) cancelling the licence, other than by way of noncompliance action;
- (b) transferring the pipeline to the State;
- (c) taking over the construction of the pipeline;
- (d) taking over the operation of the pipeline;
- (e) transferring to the State the licence holder's interest in pipeline land for the pipeline;
- (f) transferring 1 or more of the following to an entity other than the State—
 - (i) the pipeline;
 - (ii) the licence;
 - (iii) the licence holder's interest in pipeline land for the pipeline.

414 Provision for reduction of area of licence

A pipeline licence may provide that stated land ceases to be in the area of the licence if—

- (a) construction of a stated pipeline is completed; and
- (b) the land has not become pipeline land for the licence.

415 Criteria for decisions

The matters that must be considered in deciding whether to grant a pipeline licence or deciding its provisions include each of the following—

- (a) the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to competently and safely manage any construction and the operation of pipelines the subject of the licence;
- (b) the appropriateness of each pipeline for its purpose as stated in the application;
- (c) for an area pipeline licence—the minimum area required for pipelines the subject of the licence;

- (d) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest;
- (e) whether the proposed licence is in the public interest.

416 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

Division 4 Key mandatory conditions for pipeline licences

417 Operation of div 4

This division provides for particular mandatory conditions for pipeline licences.

Note—

- 1 Chapter 5⁴²⁶ also provides for mandatory conditions for pipeline licences.
- 2 For what is a mandatory condition, see section 20(2).⁴²⁷

418 Obligation to consult with particular owners and occupiers

- (1) A pipeline licence holder must consult, or use reasonable endeavours to consult, with each owner and occupier of access land for the licence and other private or public land, other than any of the following land, on which authorised activities for the licence are, or are likely to be, carried out—
 - (a) land that the licence holder owns;

426 Chapter 5 (Common petroleum authority provisions)

427 Section 20 (What are the *conditions* of a petroleum authority)

- (b) land over which the licence holder holds an appropriate easement for the construction or operation of the pipeline.
- (2) The consultation must be about the carrying out of authorised activities for the licence (including, for example, crossing access land for the licence) to the extent they relate to the owners and occupiers.
- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the licence; or
 - (b) if the licence does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, part 2 or 3.⁴²⁸
- (5) A failure to comply with this section does not prevent authorised activities for the licence from being carried out.

419 Obligation to construct pipeline

- (1) Subject to section 401,⁴²⁹ a pipeline licence holder must complete construction of the pipeline the subject of the licence on or before any completion day for the construction stated in the licence.
- (2) However, if the licence is an area pipeline licence, subsection (1) only applies for each initial pipeline mentioned in the licence.

420 Notice of completion of pipeline

- (1) This section applies if—
 - (a) the construction of a pipeline under an area pipeline licence is completed; or
 - (b) a pipeline the subject of a point-to-point pipeline licence is completed.

428 Chapter 5, part 2 (Private land) or 3 (Public land)

429 Section 401 (Construction and operation of pipeline)

- (2) The licence holder must, within the relevant period, lodge a notice of completion of the pipeline at the following office—
- (a) the office of the department for lodging the notice of completion, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) The notice must—
- (a) state the day the pipeline was completed; and
 - (b) describe—
 - (i) the pipeline land for the licence; and
 - (ii) any public land in the area of the licence the holder reasonably requires to operate the pipeline; and
 - (c) be accompanied by the handling fee to record the information, as prescribed under a regulation.⁴³⁰
- (4) In this section—
- relevant period*** means the period that ends—
- (a) for a pipeline the subject of a point-to-point pipeline licence—6 months after its completion; or
 - (b) for a pipeline under an area pipeline licence—20 business days after its completion.

421 Notice to public road authority of pipeline constructed on public road

If a pipeline licence holder constructs a pipeline on a public road, the holder must, within 6 months after completing the pipeline—

- (a) give the public road authority for the road accurate details of the location of the pipeline; and
- (b) keep complete and accurate records of the location of the pipeline.

⁴³⁰ See also division 5 (Amendment of point-to-point pipeline licences after pipeline completed).

422 Obligations in operating pipeline

- (1) The holder of a pipeline licence must, after the pipeline has been constructed, operate it in a way that ensures its continuing capacity to safely and reliably transport petroleum, fuel gas or another substance prescribed under section 402⁴³¹ for which it is licensed.
- (2) It is a condition of a pipeline licence that the pipeline not remain unused for a continuous period of more than 3 years, unless the Minister otherwise agrees.⁴³²

423 Annual licence fee

- (1) A pipeline licence holder must pay the State an annual licence fee as prescribed under a regulation.⁴³³
- (2) The fee must be paid in the way, and on or before the day, prescribed under a regulation.

424 Civil penalty for nonpayment of annual licence fee

- (1) If a pipeline licence holder does not pay an annual licence fee as required under section 423, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the fee.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the fee; and
 - (b) is still payable even if the holder later pays the fee.

431 Section 402 (Licence may extend transportation right to other prescribed substances)

432 See also sections 559 (Obligation to decommission pipelines) and 804 (Duty to avoid interference in carrying out authorised activities).

433 See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

Division 5 Amendment of point-to-point pipeline licences after pipeline completed

425 Power to amend

If the holder of a point-to-point pipeline licence gives a notice under section 420,⁴³⁴ the Minister may amend the licence to reduce its area to—

- (a) the pipeline land for the licence; and
- (b) any public land in the area of the licence stated in the notice.

Division 6 Provisions for public land authorities

Subdivision 1 Public roads

426 Public road authority's obligations in aligning pipeline on road

If, under section 527,⁴³⁵ a public road authority imposes a condition about an alignment for a pipeline on, or proposed to be constructed on, a public road the alignment must be—

- (a) situated to ensure reasonable protection for the pipeline; and
- (b) if practicable, on the footpath or verge of the road.

427 Requirement to consult if construction affects existing pipeline

- (1) This section applies if a public road authority proposes to construct or change a public road in a way that is likely to affect the location, operation or safety of a pipeline.

434 Section 420 (Notice of completion of pipeline)

435 Section 527 (Conditions public land authority may impose)

- (2) The authority must give the relevant pipeline licence holder a notice stating—
 - (a) details of the proposed road or proposed change; and
 - (b) that the holder may, within a stated period, lodge submissions to the authority about the proposal at the office of the authority stated in the notice.
- (3) The stated period must not end before 30 business days after the notice is given.
- (4) Before deciding to implement the proposal, the authority must consider any submissions lodged by the holder within the stated period.
- (5) If the authority decides to implement the proposal, it must give the holder notice of the decision.

428 Costs of pipeline works caused by public road construction

- (1) This section applies if—
 - (a) a public road authority constructs, or changes, a public road; and
 - (b) the road, or the road as changed, affects the safety, location or operation of a pipeline constructed or operated, or proposed to be constructed or operated; and
 - (c) because of the effects, it is necessary for the holder of the pipeline licence for the pipeline to carry out works relating to the pipeline.
- (2) The holder must bear the holder's own costs of carrying out the works if—
 - (a) the road existed before the pipeline was constructed; or
 - (b) the road is constructed on an area that was dedicated to public use as a road before the pipeline was constructed.
- (3) Otherwise, the holder may recover from the authority as a debt any reasonable costs the holder incurs in carrying out the works.

429 Public road authority's obligation to give holder information

- (1) This section applies if a pipeline licence holder asks a public road authority for a public road in the area of the licence for information about—
 - (a) the permanent level of the road; or
 - (b) the alignment allocated by the authority for a pipeline the subject of the licence.
- (2) The authority must comply with the request within 20 business days after it is made.
- (3) The information given must be accurate and as complete as possible.

430 Consequence of not giving information

If a public road authority does not comply with a request under section 429 about a public road, the pipeline licence holder that made the request may decide a reasonable permanent level and alignment for the road, based on—

- (a) information available to the holder; and
- (b) any standards prescribed under section 557(1)(b)⁴³⁶ for constructing pipelines on roads.

Subdivision 2 Works directions**431 Power to give works directions**

- (1) This section applies if—
 - (a) a pipeline licence holder proposes to construct, has constructed, or is constructing, a pipeline on or through public land; and

436 Section 557 (Obligation to comply with Act and prescribed standards)

- (b) the public land authority for the land has, under a public land authority approval, imposed a condition relating to the construction;⁴³⁷ and
 - (c) the authority reasonably considers works should be carried out to ensure compliance with the condition.
- (2) The authority, may give the holder a notice (a *works direction*) directing the holder to carry out stated works to comply with the condition within a stated reasonable period.
 - (3) The works direction must—
 - (a) identify the relevant condition; and
 - (b) include, or be accompanied by, an information notice about the decision to make the works direction.
 - (4) Works stated in a works direction must comply with any standard prescribed under a regulation for carrying out the works to the extent the standard is relevant to the works.

432 Compliance with works direction

- (1) A pipeline licence holder to whom a works direction has been given must, within the period stated in it, comply with the direction to the reasonable satisfaction of the public land authority that gave the direction.
- (2) If the holder does not comply with subsection (1) the authority may ensure the works the subject of the direction are carried out.
- (3) The authority may recover from the holder as a debt any reasonable costs the authority incurs in ensuring the works are carried out.

⁴³⁷ See sections 526 (Requirement for entry notice to carry out authorised activities) and 527 (Conditions public land authority may impose).

Division 7 Ministerial review of pipeline licence conditions

433 Application of div 7

This division applies only if a pipeline licence states a review day.

434 Power to review licence

- (1) The Minister may, by complying with sections 435 and 436, amend the pipeline licence if satisfied—
 - (a) the conditions of the licence—
 - (i) are no longer appropriate; or
 - (ii) do not make provision, or sufficient provision, about a matter; and
 - (b) the amendment is necessary or desirable.
- (2) However, the licence can not be amended in a way that is inconsistent with the mandatory conditions for pipeline licences.
- (3) This section does not limit the power to amend the licence under another provision of this Act.⁴³⁸

435 Notice of proposed amendment

- (1) The Minister must give the pipeline licence holder a notice stating each of the following—
 - (a) the proposed amendment;
 - (b) the conditions of the licence that the Minister considers are no longer appropriate or the matter about which the conditions do not make provision, or sufficient provision;
 - (c) reasons why the Minister considers the amendment to be necessary or desirable;

⁴³⁸ See, for example, sections 790 (Types of noncompliance action that may be taken) and 848 (Power to correct or amend).

- (d) that the holder may, within a stated reasonable period, lodge submissions about the proposed amendment at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (2) The stated period must not end before 20 business days after the notice is given.

436 Decision on proposed amendment

- (1) Before deciding the proposed amendment, any submissions lodged within the period stated in the notice given under section 435 must be considered.
- (2) If a decision is made not to make the proposed amendment, the holder must be given notice of the decision.
- (3) If, after considering the submissions, the Minister is still satisfied under section 434(1), the amendment may be made.
- (4) On deciding to make the amendment, the holder must be given an information notice about the decision.
- (5) The amendment takes effect on the end of the appeal period for the decision, or if a later day of effect stated in the notice, on the later day.⁴³⁹

Division 8 Miscellaneous provisions

437 Limitation of transmission pipeline licence holder's liability

- (1) This section applies if a person incurs a cost, damage or loss because of—
 - (a) the partial or total failure of a pipeline licence holder to transport petroleum or fuel gas through a transmission pipeline; or

⁴³⁹ See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

- (b) fuel gas not of the prescribed quality transported through a transmission pipeline the subject of a pipeline licence.
- (2) However, this section does not apply to the extent to which liability for the cost, damage or loss is, under a contract, agreed between the person and the licence holder.
 - (3) The licence holder is not civilly liable for the cost, damage or loss if—
 - (a) the failure, or the fuel gas being not of the prescribed quality, was caused by a circumstance beyond the holder's control; and
 - (b) the holder's operation of the pipeline—
 - (i) complied with this Act and the conditions of the licence; and
 - (ii) was carried out in good faith and without negligence.
 - (4) Subsection (3) does not limit section 7(3).⁴⁴⁰

440 Section 7 (Act does not affect other rights or remedies)

Part 3 Petroleum facility licences⁴⁴¹**Division 1 Key authorised activities****Subdivision 1 Preliminary****438 Operation of div 1**

- (1) This division provides for the key authorised activities for a petroleum facility licence.⁴⁴²
- (2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.⁴⁴³
- (3) However, the carrying out of the authorised activities is subject to—
 - (a) subdivision 2; and
 - (b) chapter 5;⁴⁴⁴ and
 - (c) the mandatory and other conditions of the licence; and
 - (d) any exclusion or restriction provided for in the licence on the carrying out of the activities.

439 What is *petroleum facility land* for a petroleum facility licence

- (1) *Petroleum facility land*, for a petroleum facility licence, is land—

441 For what is a petroleum facility, see section 17 (What is a *petroleum facility*).

For when a licence is required for a petroleum facility, see section 803 (Restriction on petroleum facility construction or operation).

442 For other authorised activities, see chapter 5, part 2, division 3 (Access to private land outside area of petroleum authority) and part 8 (General provisions for conditions and authorised activities).

443 See however the restrictions and requirements under chapter 5, parts 2 (Private land), 3 (Public land) and 5 (General compensation provisions) for carrying out of the activities.

444 Chapter 5 (Common petroleum authority provisions)

- (a) that the licence holder owns; or
- (b) over which the holder—
 - (i) holds an appropriate easement for the construction or operation of the petroleum facility; or
 - (ii) has obtained the owner's written permission to enter to construct or operate the petroleum facility; or
 - (iii) holds a part 5⁴⁴⁵ permission to enter to construct or operate the petroleum facility.
- (2) To remove any doubt, it is declared that—
 - (a) the granting of a petroleum facility licence does not, of itself, create an easement for the construction or operation of the petroleum facility; and
 - (b) the giving of a waiver of entry notice is not, of itself, a permission for subsection (1)(b)(ii).

Subdivision 2 General restriction on authorised activities

440 Restriction if there is an existing mining lease

If land in the area of a petroleum facility licence is also in the area of a mining lease and the mining lease was granted before the licence, an authorised activity for the licence may be carried out on the land only if—

- (a) the mining lease holder has agreed in writing to the carrying out of the activity; and
- (b) a copy of the agreement has been lodged at—
 - (i) the office of the department for lodging the agreement, as stated in a gazette notice by the chief executive; or

445 Part 5 (Permission to enter land to exercise rights under a pipeline or petroleum facility licence)

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
- (c) the agreement is still in force.

Subdivision 3 Petroleum facility construction and operation

441 Construction and operation of petroleum facility

- (1) The holder of a petroleum facility licence may, on the petroleum facility land for the licence, construct or operate the petroleum facility.
- (2) However, if native title exists in relation to the petroleum facility land, the holder must have or hold an interest or permission mentioned in section 439(1)(b)⁴⁴⁶ for the native title rights and interests.
- (3) To remove any doubt, it is declared that the mere grant of the licence does not, of itself, authorise the construction or operation of the petroleum facility on other land in the area of the licence.

442 Incidental activities

- (1) This section applies if, under section 441, a petroleum facility licence holder has the right to construct or operate a petroleum facility.
- (2) The holder may carry out an activity (an *incidental activity*) in the area of the licence if carrying out the activity is reasonably necessary for the construction or operation.⁴⁴⁷

Examples of incidental activities—

- 1 constructing or operating plant or works, including, for example, bridges, powerlines, roads, trenches and tunnels

446 Section 439 (What is *petroleum facility* land for a petroleum facility licence)

447 See also chapter 5 (Common petroleum authority provisions) and section 20 (What are the *conditions* of a petroleum authority).

- 2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps
 - 3 removing vegetation for, or for the safety of, the construction or operation of the petroleum facility
- (3) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.⁴⁴⁸

Division 2 Obtaining petroleum facility licence

Subdivision 1 Applying for petroleum facility licence

443 Who may apply

- (1) A person may apply for a petroleum facility licence for a petroleum facility or proposed petroleum facility.
- (2) However, if the facility is partly on the area of a petroleum lease and partly on other land, a person can not apply for a petroleum facility licence in relation to the facility unless the application is for the whole of the facility.
- (3) In this section—

proposed petroleum facility includes a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a pipeline licence held by the applicant for which facility the applicant wishes to obtain a petroleum facility licence.

448 For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

444 Notice of proposed application to relevant local government

- (1) The applicant must, before making the application, give each relevant local government a notice stating the application details under section 445(c) for the proposed application.
- (2) In this section—

relevant local government means a local government in whose local government area the petroleum facility is proposed to be constructed under the licence.

445 Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) be lodged at—
 - (i) the office of the department for lodging petroleum facility licence applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state each of the following—
 - (i) the petroleum facility, or proposed petroleum facility, the subject of the application;
 - (ii) a description of the proposed petroleum facility land for the licence;
 - (iii) the precise location of the facility, or proposed petroleum facility on the land;
 - (iv) the purpose of the facility;
 - (v) for a proposed facility—a proposed day for the completion of the construction of the facility;
 - (vi) the extent and nature of activities proposed to be carried out under the licence; and
- (d) if the area of the licence is, or is included in, the area of another petroleum authority or a mining

- interest—identify possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest; and
- (e) include a statement about how and when the applicant proposes to consult with, and keep informed, owners and occupiers of—
 - (i) private or public land on which the activities are proposed to be carried out; or
 - (ii) access land for the proposed licence;⁴⁴⁹ and
 - (f) include a statement that section 444 has been complied with; and
 - (g) address the criteria mentioned in section 448(a); and
 - (h) be accompanied by the fee prescribed under a regulation.

Subdivision 2 Deciding petroleum facility licence application

446 Deciding whether to grant licence

- (1) The Minister may—
 - (a) subject to section 447A, decide to grant the applicant a petroleum facility licence only if—
 - (i) the applicant is an eligible person; and
 - (ii) a relevant environmental authority for the licence has been issued;⁴⁵⁰ and
 - (b) before granting the licence, require the applicant to do all or any of the following within a stated reasonable period—
 - (i) pay the licence fee for the first year of the proposed licence;

449 See section 451 (Obligation to consult with particular owners and occupiers).

450 See also section 448 (Criteria for decisions).

- (ii) give, under section 488,⁴⁵¹ security for the licence.
- (2) If the applicant does not comply with a requirement under subsection (1), the Minister may refuse to grant the licence.

447 Provisions of licence

- (1) Each petroleum facility licence must state—
 - (a) its term and area; and
 - (b) if the facility the subject of the licence has not already been constructed—a day by which its holder must complete construction of the facility.
- (2) The term must end no later than 30 years after the licence takes effect.
- (3) The area of the licence must be the area that the Minister considers is the minimum area needed to adequately carry out the purpose of the petroleum facility or proposed petroleum facility.
- (4) The licence may also state—
 - (a) conditions or other provisions of the licence, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for petroleum facility licences;⁴⁵² or
 - (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and
 - (b) the day it takes effect.
- (5) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.
- (6) If no day of effect is stated, the licence takes effect on the day it is granted.
- (7) This section applies subject to section 447A.

451 Section 488 (Power to require security for petroleum authority)

452 For mandatory conditions, see division 3 (Key mandatory conditions for petroleum facility licences) and chapter 5, part 8 (General provisions for conditions and authorised activities).

447A Provisions about grant and conditions of licence for significant project

- (1) This section applies if a petroleum facility licence or proposed petroleum facility licence is for a significant project.
- (2) The Minister must not grant the licence until the Minister has been given the Coordinator-General's report for the project.
- (3) Any Coordinator-General's conditions for the licence must be stated in the licence.
- (4) Any other condition of the licence stated under section 447 must not be inconsistent with the Coordinator-General's conditions.
- (5) If a mandatory condition for petroleum facility licences conflicts with any of the Coordinator-General's conditions, the Coordinator-General's condition prevails to the extent of the inconsistency.

448 Criteria for decisions

The matters that must be considered in deciding whether to grant a petroleum facility licence or deciding its provisions include each of the following—

- (a) the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to competently and safely manage the construction and operation of the proposed petroleum facility;
- (b) for a proposed petroleum facility, the appropriateness of its—
 - (i) location on the proposed petroleum facility land; and
 - (ii) configuration, design and construction methods;
- (c) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—any possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest;

- (d) the purpose of the facility;
- (e) whether the proposed licence is in the public interest.

448A Provision for facility already the subject of a pipeline licence

- (1) This section applies if—
 - (a) the application is granted; and
 - (b) the application was for a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a pipeline licence held by the applicant.
- (2) Despite section 16(2),⁴⁵³ the facility ceases to be a part of any pipeline the subject of the pipeline licence.
- (3) The operation of the facility ceases to be an authorised activity for the pipeline licence.

449 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

Division 3 Key mandatory conditions for petroleum facility licences

450 Operation of div 3

This division provides for particular mandatory conditions for petroleum facility licences.

Note—

- 1 Chapter 5⁴⁵⁴ also provides for mandatory conditions for petroleum facility licences.
- 2 For what is a mandatory condition, see section 20(2).⁴⁵⁵

453 Section 16 (What is a *pipeline*)

454 Chapter 5 (Common petroleum authority provisions)

455 Section 20 (What are the *conditions* of a petroleum authority)

451 Obligation to consult with particular owners and occupiers

- (1) A petroleum facility licence holder must consult, or use reasonable endeavours to consult, with each owner and occupier of access land for the licence and other private or public land, other than any of the following land, on which authorised activities for the licence are, or are likely to be, carried out—
 - (a) land that the licence holder owns;
 - (b) land over which the licence holder holds an appropriate easement for the construction or operation of the petroleum facility.
- (2) The consultation must be about the carrying out of authorised activities for the licence (including, for example, crossing access land for the licence) to the extent they relate to the owners and occupiers.
- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the licence; or
 - (b) if the licence does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, part 2 or 3.⁴⁵⁶
- (5) A failure to comply with this section does not prevent authorised activities for the licence from being carried out.

452 Obligation to construct facility

A petroleum facility licence holder must complete construction of the petroleum facility the subject of the licence on or before any completion day for the construction stated in the licence.

456 Chapter 5, part 2 (Private land) or 3 (Public land)

453 Obligation to operate facility

The holder of a petroleum facility licence must, after the facility has been constructed, operate it in a way that ensures the continuing of the facility for the purpose for which it is licensed.

454 Annual licence fee

- (1) A petroleum facility licence holder must pay the State an annual licence fee as prescribed under a regulation.
- (2) The fee must be paid in the way, and on or before the day, prescribed under a regulation.⁴⁵⁷

455 Civil penalty for nonpayment of annual licence fee

- (1) If a petroleum facility licence holder does not pay an annual licence fee as required under section 454, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the fee.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the fee; and
 - (b) is still payable even if the holder later pays the fee.

Part 4 Taking land for pipelines and petroleum facilities

456 State's power to take land

- (1) This section applies subject to sections 457 and 458.
- (2) The State may take land, or an interest in land for—

⁴⁵⁷ See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

- (a) the carrying out of authorised activities for a licence or proposed licence; or
 - (b) petroleum processing, storage or transport, including, for example, to construct and operate a pipeline.
- (3) The power to take land may be exercised—
- (a) for the State by the Minister; and
 - (b) whether or not the State proposes to transfer the land, or an interest in the land, to someone else.
- (4) To remove any doubt, it is declared that if the land is held from the State under the *Land Act 1994* or another Act, the power is as well as, and is not limited by, any power under the *Land Act 1994* or other Act to forfeit or take the land or the interest under which it is held.
- (5) In this section—
licence does not include a survey licence.

457 Restrictions on power to take land

- (1) The State may take land under section 456 only if the Minister is satisfied—
- (a) the area of the land is the minimum area needed to adequately carry out the activities for which it is taken; and
 - (b) other land is not more appropriate for carrying out the activities; and
 - (c) the taking of the land is in the public interest.
- (2) Also, the State may take land for authorised activities for a petroleum facility licence, or proposed petroleum facility licence, for a facility to be used in connection with a pipeline or proposed pipeline only if the Minister is satisfied the licence holder, or proposed licence holder, has decided the site of the pipeline.

458 Process for taking land

- (1) The *Acquisition of Land Act 1967* (the **ALA**) applies⁴⁵⁸ for taking land under section 456 and paying compensation for land taken as if—
 - (a) the taking were a taking under that Act by a constructing authority; and
 - (b) the reference in the ALA, section 5(1)(c) to the taking of land for a purpose stated in the schedule to that Act were a reference to the taking of land for a purpose mentioned in section 456(2); and
 - (c) the constructing authority were the State; and
 - (d) the reference in the ALA, section 9⁴⁵⁹ to the Minister is a reference to the Minister administering this Act.
- (2) However, the ALA, section 10 is not to be applied.
- (3) Taking land under section 456 does not become a taking of land under the ALA.
- (4) In assessing the compensation, allowance can not be made for the value of petroleum known or supposed to be on or under, or produced from, the land.⁴⁶⁰

459 Recovery of costs and compensation from holder or proposed holder

- (1) This section applies if the State incurs, or becomes liable to pay—
 - (a) costs relating to—
 - (i) the taking under section 456(2) of land for the carrying out of authorised activities for a licence or proposed licence; or
 - (ii) the transfer of the land to the relevant person; or

458 However, for land where native title exists, see sections 8 (Native title) and 855 (Application of provisions).

459 *Acquisition of Land Act 1967*, section 9 (Ways in which land is to be taken)

460 See also section 462 (Disposal of land taken by State).

- (iii) the negotiation of the transfer, or any contract relating to the transfer; or
 - (b) assessed compensation for the taking; or
 - (c) costs relating to the compensation or its assessment; or
 - (d) interest on the compensation or costs.
- (2) The State may recover from the relevant person as a debt—
 - (a) the reasonable amount of the costs; and
 - (b) the amount of the assessed compensation and the interest.
- (3) In this section—

relevant person means—

 - (a) relevant licence holder; or
 - (b) if the taking was for authorised activities for a proposed licence—the person who proposed to obtain the licence.

460 Power to enter land proposed to be taken

- (1) The Minister may authorise a person (the *authorised person*) to enter land proposed to be taken under section 456 to report to the Minister about the suitability of the land for the purpose for which it is proposed to be taken.
- (2) Subsection (1) applies even if the process for taking the land has not started.
- (3) The authorisation—
 - (a) must be written; and
 - (b) may be given on conditions the Minister considers appropriate.
- (4) Subject to section 461, the authorised person may enter the land and carry out activities necessary or convenient for the report.
- (5) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.

461 Requirements for entry to land proposed to be taken

- (1) An authorised person under section 460 may enter land proposed to be taken only if the following person is given notice of the proposed entry at least 10 business days before the proposed entry—
 - (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
 - (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has, under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.
- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person's authorisation under this section.

462 Disposal of land taken by State

- (1) The State may transfer land taken under section 456⁴⁶¹ to any one else, including, for example, the holder or proposed holder of a licence for the land.

461 Section 456 (State's power to take land)

- (2) The *Acquisition of Land Act 1967*, section 41,⁴⁶² applies to land taken under section 456.
- (3) However, subsection (2) only applies if the State has not offered, or proposed to offer, the land for sale to any holder, or proposed holder, of a licence the area of which includes the land.

Part 5 **Permission to enter land to exercise rights under a pipeline or petroleum facility licence**

Division 1 **Applying for and obtaining permission**

463 **Applying for permission**

- (1) A person who holds, or who has applied for, a pipeline licence may apply for permission (a *part 5 permission*) to enter the area, or proposed area, of the licence to construct or operate a pipeline the subject of the licence or proposed licence.
- (2) A person who holds, or who has applied for, a petroleum facility licence may apply for permission (also a *part 5 permission*) to enter the area, or proposed area, of the licence to construct or operate the petroleum facility the subject of the licence or proposed licence.

464 **Requirements for making application**

An application for a part 5 permission must—

- (a) be in the approved form; and
- (b) be lodged at—

462 *Acquisition of Land Act 1967*, section 41 (Disposal of land)

- (i) the office of the department for lodging applications for part 5 permissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) be accompanied by the fee prescribed under a regulation; and
- (d) state the steps the applicant has taken to—
- (i) become the owner of the land; or
 - (ii) be granted an appropriate easement to construct or operate the pipeline or petroleum facility; or
 - (iii) obtain the permission of the owner of the land to enter the land to construct or operate the pipeline or petroleum facility.⁴⁶³

465 Notice to owners about application

- (1) The applicant must give each owner of the land notice (a *consultation notice*) of the application.
- (2) The consultation notice must describe the land and state—
- (a) the purpose of the proposed part 5 permission; and
 - (b) any conditions the applicant proposes for the part 5 permission; and
 - (c) a period (the *consultation period*) during which—
 - (i) the applicant will consult with each owner about the proposed permission and the conditions; and
 - (ii) an owner may lodge submissions about the proposed part 5 permission and the conditions at—
 - (A) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or

⁴⁶³ See sections 401 (Construction and operation of pipeline) and 441 (Construction and operation of petroleum facility).

- (B) if no office is gazetted under subsubparagraph (A)—the office of the chief executive.
- (3) The consultation period must end at least 20 business days after each owner has been given the consultation notice.
- (4) The period may be extended by agreement between the applicant for the part 5 permission and the owner.

466 Change in ownership during consultation period

- (1) This section applies if—
- (a) an owner of the land (the *former owner*) has been given a consultation notice; and
- (b) after the notice was given, the ownership of the land changes.
- (2) The applicant is taken to have given the notice to the new owner of the land when the former owner was given the notice.
- (3) If the applicant becomes aware of the change, the applicant must give the new owner a copy of the notice.
- (4) A failure to comply with subsection (3) does not prevent the application from being decided.

467 Deciding application

- (1) The Minister may, after the consultation period has ended, grant or refuse the part 5 permission.
- (2) The Minister may impose conditions on the part 5 permission.

468 Criteria for decision

- (1) The Minister may grant the part 5 permission only if satisfied of each of the following—
- (a) the applicant has given each owner of the land a consultation notice and the applicant has shown that each owner of the land has received the notice;
- (b) either—

- (i) the consultation period has ended and the Minister is reasonably satisfied the applicant has made reasonable attempts to consult with each owner of the land; or
 - (ii) before the end of the consultation period each owner of the land has—
 - (A) agreed to the grant of the part 5 permission; or
 - (B) given the applicant permission to enter the land;
 - (c) the applicant has decided the site of the pipeline or facility;
 - (d) it is reasonable to site the pipeline or petroleum facility on the land;
 - (e) the land the subject of the part 5 permission is the minimum area needed for the permission;
 - (f) the granting of the part 5 permission is in the public interest.
- (2) In deciding the application any submissions lodged by an owner of the land during the consultation period must be considered.

469 Statement of proposed resumption may be included

The part 5 permission may include a statement that the State intends to resume the land the subject of the permission if the land is not, other than because of the permission, pipeline land or petroleum facility land for the licence, or proposed licence within 9 months after the permission takes effect.⁴⁶⁴

470 Steps after and taking effect of part 5 permission

- (1) On granting of the part 5 permission, the applicant and the owner of the land the subject of the permission must be given a copy of it.

⁴⁶⁴ For the State's power to take the land, see part 4 (Taking land for pipelines and petroleum facilities).

- (2) The permission takes effect on the later of the following days—
- (a) the day it is granted;
 - (b) if the applicant does not hold the relevant pipeline or petroleum facility licence—the day the licence is granted;
 - (c) another day fixed by the Minister.⁴⁶⁵
- (3) The Minister must, after granting the part 5 permission, publish it in the gazette.

Division 2 Effect and term of part 5 permission

471 Effect of part 5 permission

- (1) The effect of the part 5 permission is that, under section 399 or 439,⁴⁶⁶ the land the subject of the permission becomes pipeline land or petroleum facility land for the licence.
- (2) The part 5 permission does not, of itself, give the holder the right to carry out authorised activities for the licence.

Note—

Chapter 5, parts 2 and 3⁴⁶⁷ provide for how the holder may enter the land to carry out authorised activities.

472 Term of part 5 permission

- (1) A part 5 permission ceases to be in force—

⁴⁶⁵ For the authorised activities that may be carried out when the part 5 permission takes effect (and, if the licence has not been granted, when it is granted), see sections 401 (Construction and operation of pipeline) and 441 (Construction and operation of petroleum facility).

If the licence has not yet been granted, see also section 802 (Restriction on pipeline construction or operation) and 803 (Restriction on petroleum facility construction or operation).

⁴⁶⁶ Section 399 (What is *pipeline land* for a pipeline licence) or 439 (What is *petroleum facility land* for a petroleum facility licence)

⁴⁶⁷ Chapter 5, parts 2 (Private land) and 3 (Public land)

- (a) if the land the subject of the permission becomes, other than because of the permission, pipeline land or petroleum facility land for the relevant licence; or
 - (b) if it is cancelled under section 473; or
 - (c) 9 months after it is granted.
- (2) However, if the State has, within the 9 months, given a notice of intention to resume the land under part 4,⁴⁶⁸ the part 5 permission continues in force until—
- (a) the land is taken under part 4 and it is transferred to the licence holder; or
 - (b) the taking of the land is discontinued.⁴⁶⁹
- (3) On the part 5 permission ceasing to be in force, the Minister must gazette a notice stating that it is no longer in force.

473 Power to cancel part 5 permission

- (1) The Minister may cancel the part 5 permission at any time.
- (2) The cancellation takes effect when the holder is given an information notice about the decision to cancel or, if the notice states a later day of effect, on that later day.

Part 6 Amending licence by application

474 Amendment applications that may be made

- (1) A licence holder may apply for the amendment of the licence.

Examples of how a licence may be amended—

- changing, removing or adding a new condition
- for a pipeline or petroleum facility licence—

468 Part 4 (Taking land for pipelines and petroleum facilities)

469 See section 458 (Process for taking land) and the *Acquisition of Land Act 1967*, part 3 (Discontinuance of taking of land).

- changing any configuration or specification stated in the licence for the pipeline or facility; or
 - increasing or reducing the area of the pipeline or petroleum facility land
 - for a pipeline licence—changing a route of a pipeline
- (2) Despite subsection (1), an application can not be made to amend the licence in a way that is—
- (a) inconsistent with a mandatory condition, other than to change the completion day for construction stated in the licence;⁴⁷⁰ or
 - (b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence.

475 Requirements for making application

The application must be—

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

476 Notice requirements

- (1) This section applies for the application if it seeks to extend the area of the licence.
- (2) If the area is for a pipeline, sections 408 and 411 apply as if the application was a pipeline licence application for the proposed extended area.

470 See sections 419 (Obligation to construct pipeline) and 452 (Obligation to construct facility).

- (3) If the area is for a petroleum facility, section 444 applies as if the application was a petroleum facility licence application for the proposed extended area.⁴⁷¹

477 Deciding application

- (1) The Minister may grant or refuse the amendment.
- (2) In deciding the application, the relevant criteria under this chapter for deciding an application to obtain the licence must, to the extent they are relevant, be considered.⁴⁷²
- (3) The Minister may grant the application subject to the applicant's written agreement to the Minister amending the licence in a stated way that the Minister considers appropriate.⁴⁷³

Examples—

An application is to extend a pipeline or petroleum facility. The Minister may grant the application subject to the applicant agreeing in writing to the Minister amending the licence so that the extension must be completed—

- (a) by a stated day; or
- (b) in accordance with a stated standard or specification.

478 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

471 Sections 408 (Notice of proposed application to relevant local government), 411 (Public notice requirement) and 444 (Notice of proposed application to relevant local government)

472 See sections 397, 415 and 448 (Criteria for decisions).

473 See section 848 (Power to correct or amend).
See also chapter 5, part 1 (Security).

Part 7 Renewals

478A Survey licence can not be renewed

A survey licence can not be renewed.

479 Conditions for renewal application for other types of licence

- (1) The holder of a licence, other than a survey licence, may apply to renew the licence only if none of the following is outstanding—
 - (a) an annual licence fee for the licence;
 - (b) a civil penalty under section 424 or 455 for nonpayment of an annual licence fee;
 - (c) interest payable under section 588⁴⁷⁴ on the annual licence fee or civil penalty;
 - (d) security for the licence, as required under section 488.⁴⁷⁵
- (2) Also, the application can not be made—
 - (a) more than 60 business days before the end of the term of the licence; or
 - (b) after the licence has ended.

480 Requirements for making application

The application must be—

- (a) in the approved form; and
- (b) lodged at—
 - (i) the office of the department for lodging licence renewal applications, as stated in a gazette notice by the chief executive; or

474 Section 588 (Interest on amounts owing to the State other than for petroleum royalty)

475 Section 488 (Power to require security for petroleum authority)

- (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) state whether or not the applicant has complied with chapter 5, part 7,⁴⁷⁶ for reports required to be lodged in relation to the licence; and
- (d) accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if the application is made less than 20 business days before the end of the term of the licence—an amount that is 10 times the application fee.

481 Continuing effect of licence for renewal application

- (1) This section applies if the term of the licence ends before the application is decided.
- (2) Despite the ending of the term, the licence continues in force until the earlier of the following to happen—
 - (a) the start of any renewed term of the licence; or
 - (b) a refusal of the application takes effect;⁴⁷⁷ or
 - (c) the application is withdrawn; or
 - (d) the licence is cancelled under this Act.
- (3) If the licence is renewed, subsection (2) is taken never to have applied for the period from the end of the term of the licence being renewed, as stated in that licence.⁴⁷⁸

482 Deciding application

- (1) The Minister may grant or refuse the renewal.

476 Chapter 5, part 7 (Reporting)

477 See section 486 (When refusal takes effect).

478 See section 482(3) (Deciding application).

- (2) However, the Minister must grant the renewal if the Minister considers—
 - (a) the applicant—
 - (i) continues to be capable of carrying out authorised activities for the licence; and
 - (ii) has substantially complied with the licence; and
 - (b) a relevant environmental authority for the renewed licence has been issued.
- (3) Also, the Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual licence fee for the first year of the renewed licence;
 - (b) give, under section 488,⁴⁷⁹ security for the renewed licence.
- (4) If the applicant does not comply with the requirement, the Minister may refuse the application.

483 Provisions and term of renewed licence

- (1) The conditions of the renewed licence may be different from the conditions or other provisions of the licence being renewed.
- (2) However, a takeover condition may be imposed on a renewed licence only if the licence being renewed was subject to that condition.
- (3) The renewed licence must state its term.
- (4) The renewed licence may also state—
 - (a) conditions or other provisions of the renewed licence, other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for that type of licence; or

479 Section 488 (Power to require security for petroleum authority)

- (ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and
 - (b) a day for the renewed licence to take effect.
- (5) However, the provisions of the renewed licence may exclude or restrict the carrying out of an authorised activity for the licence.
- (6) If the renewed licence is decided before the end of the term of the licence being renewed as stated in that licence (the *previous term*), the term of the renewed licence is taken to start from the end of the previous term.
- (7) If the renewed licence is decided after the previous term, the term of the renewed licence starts immediately after the end of the previous term, but—
 - (a) the conditions of the renewed licence do not start until the licence holder is given notice of them; and
 - (b) until the notice is given, the conditions of the licence being renewed apply to the renewed licence as if they were its conditions.

484 Criteria for decisions

The matters that must be considered in deciding the renewal application and the provisions of the renewed licence include—

- (a) if the licence being renewed is a pipeline licence and the applicant proposes to change the pipelines the subject of the licence—the matters mentioned in section 415⁴⁸⁰ to the extent they are relevant to the change; or
- (b) if the licence being renewed is a petroleum facility licence and the applicant proposes to change the facility—the appropriateness of the configuration, construction methods, and design for the change.

480 Section 415 (Criteria for decisions)

485 Information notice about refusal

On refusal of the application, the applicant must be given an information notice about the decision to refuse.

486 When refusal takes effect

A refusal of the application does not take effect until the end of the appeal period for the decision to refuse.⁴⁸¹

Chapter 5 Common petroleum authority provisions⁴⁸²

Part 1 Security

487 Operation and purpose of pt 1

- (1) This part empowers the Minister to require, from time to time, the holder of a petroleum authority, or a person who has applied for a petroleum authority, to give the State security for the authority, or proposed authority.
- (2) The security may be used to pay—
 - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
 - (b) unpaid petroleum royalty or annual licence fee or rent payable by the holder to the State; and
 - (c) other unpaid amounts payable under this Act by the holder to the State, including, for example any of the following payable by the holder to the State—
 - (i) unpaid civil penalty;

481 See sections 824 (Period to appeal) and 826 (Stay of operation of decision).

482 See also chapter 1, part 5 (General provisions for petroleum authorities) and chapter 14, part 2 (Miscellaneous provisions for all authorities under Act).

- (ii) unpaid interest on unpaid petroleum royalty or annual rent;
- (iii) any debt payable by the holder under section 587;⁴⁸³ and
- (d) any compensation the State must pay under section 584⁴⁸⁴ because of the exercise, or purported exercise, of a remedial power under section 580⁴⁸⁵ in relation to the authority, whether or not the authority has ended.

488 Power to require security for petroleum authority

- (1) The Minister may require the holder of a petroleum authority, or a person who has applied for a petroleum authority, to give the State security for the authority, or proposed authority.
- (2) The security must be—
 - (a) in the form prescribed under a regulation; and
 - (b) of at least the amount prescribed under a regulation.
- (3) The requirement may be made at any time.
- (4) However, the requirement does not take effect until the holder or applicant is given—
 - (a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or
 - (b) otherwise—an information notice about the decision to make the requirement.

489 Minister's power to require additional security

- (1) The Minister may, at any time, require a petroleum authority holder to increase the amount of security given for the authority.
- (2) However—

483 Section 587 (Minister's power to ensure compliance by petroleum authority holder)

484 Section 584 (Compensation for exercise of remedial powers)

485 Section 580 (Power of authorised person to ensure compliance)

- (a) if, because of an increase in the prescribed amount under section 488(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
 - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 488(2) when the requirement is made—
 - (i) subsections (3) to (6) must be complied with before making the requirement; and
 - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
- (a) stating the proposed increased amount of the security for the authority; and
 - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) The stated period must end at least 20 business days after the holder is given the notice.
- (5) Any submissions lodged by the holder within the stated period must be considered before deciding to make the requirement.
- (6) In this section—
- security* given, includes security given or increased because of a requirement under subsection (1).

490 Interest on security

The State may keep any interest that accrues on security given under this part for a petroleum authority.

491 Power to use security

The State may use security given under this part for a petroleum authority, and any interest that accrues on the security, to make a payment mentioned in section 487(2) in relation to the authority.

492 Replenishment of security

- (1) This section applies, if—
 - (a) under section 491, all or part of the security for a petroleum authority has been used; and
 - (b) the authority is still in force.
- (2) The Minister must give the authority holder a notice—
 - (a) stating how much of the security has been used; and
 - (b) directing the holder to, within 30 days after the giving of the notice, replenish the security for the authority up to the higher of the following—
 - (i) the amount prescribed under a regulation;
 - (ii) if the notice states that, under section 488,⁴⁸⁶ another amount is required—the other amount.

493 Security not affected by change in authority holder

- (1) This section applies if security for a petroleum authority is given under this part for an authority that is still in force and there is a subsequent change in the authority holder.
- (2) Despite the subsequent change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 491.
- (3) The authority holder's name as stated in any instrument under which the security was given is taken to have been changed to reflect the subsequent change.

⁴⁸⁶ Section 488 (Power to require security for petroleum authority)

- (4) If the security is in the form of money, until the security is replaced or refunded it continues for the holder from time to time of the authority.

494 Retention of security after petroleum authority ends

- (1) Security, or part of security, given for a petroleum authority may be kept for 1 year after the authority has ended.
- (2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept until the claim has been assessed.

Part 2 Private land

Division 1 Preliminary

495 Application of pt 2

This part applies for a petroleum authority in relation to all private land unless—

- (a) the authority holder owns the land; or
- (b) the authority holder has the right, other than under this Act, to enter the land to carry out authorised activities for the authority; or

Example of a right, other than under this Act, for paragraph (b)—

an appropriate easement to construct or operate the pipeline the subject of a pipeline licence

- (c) the authority is a pipeline or petroleum facility licence and, under section 399 or 439, the owner of the land has given the authority holder written permission to enter the land to construct or operate a pipeline the subject of the licence.

496 Provision for applying pt 2 to water monitoring authorities

In applying this part to private land in the area of a water monitoring authority, a reference to an owner or occupier of the land is taken to include a reference to the holder of a petroleum tenure or of another water monitoring authority, the area of which includes the land.

Division 2 Requirement for entry notice for entry to private land in area of petroleum authority**497 Requirement for entry notice to carry out authorised activities**

- (1) A person must not enter private land to carry out an authorised activity for a petroleum authority unless—
 - (a) the authority holder has, at least 10 business days before the entry, given each owner and occupier of the land notice under this part (an *entry notice*) of the proposed entry; or
 - (b) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
 - (c) each owner and occupier of the land has agreed that an entry notice is not required.

Maximum penalty—500 penalty units.

- (2) If a person proposes to enter the land under subsection (1)(b), the person must, if practicable, notify each owner and occupier of the land orally before entering the land.
- (3) An agreement under subsection (1)(c) is a *waiver of entry notice*.

498 Waiver of entry notice

- (1) A waiver of entry notice—

- (a) may be given only by signed writing; and
- (b) must state each of the following—
 - (i) that the owner or occupier has been told they are not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

499 Required contents of entry notice

- (1) An entry notice must state each of the following—
 - (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant petroleum authority holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
 - (a) for an authority to prospect—6 months; or
 - (b) for another petroleum authority—1 year.
- (3) However, the entry period may be longer if the person to whom the notice is required to be given agrees in writing.

- (4) Subject to subsections (2) and (3), an entry notice given to 1 owner or occupier of the land may state a different entry period from an entry notice given to another owner or occupier of the land.
- (5) If a proposed activity is not likely to significantly disrupt activities the occupier of the land ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.
- (6) The entry notice must include, or be accompanied by, an information statement in the approved form about the rights and obligations of holders, owners and occupiers relating to the entry of land under a petroleum authority.

500 Giving entry notice by publication

- (1) The chief executive may approve a petroleum authority holder giving an entry notice by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.
- (3) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry at least 10 business days before the entry is to happen.
- (4) If the chief executive gives the approval, the entry notice may, instead of complying with section 499(6), state where a copy of the information statement mentioned in that subsection may be obtained or inspected, free of charge.

Division 2A Requirement for further notice before carrying out authorised activities on private land

500A Application of div 2A

- (1) This division applies if a petroleum authority holder proposes to—

- (a) first enter private land to carry out authorised activities for the authority; or
 - (b) allow someone else for the holder to first enter private land to carry out authorised activities for the authority.
- (2) This division applies whether or not an entry notice has been given in relation to the proposed entry.

500B Requirement to give further notice

- (1) The petroleum authority holder must give each owner and occupier of the land notice—
- (a) of the proposed entry; and
 - (b) of, accurately, when and where the authorised activities are proposed to be carried out.
- (2) The notice must be given—
- (a) generally—at least 2 business days before the proposed entry; or
 - (b) if the holder and each owner and occupier of the land have agreed to a longer or shorter period for giving the notice—within the longer or shorter period.
- (3) The notice may be written or verbal and may be given in any way, including, for example, in person, by e-mail, facsimile transmission, letter or a hand written note.

500C Failure to give further notice

- (1) The petroleum authority holder must comply with section 500B.
- Maximum penalty—50 penalty units.
- (2) However, a failure to comply with section 500B does not prevent the authorised activities from being carried out on the land.

Division 3 Access to private land outside area of petroleum authority

Subdivision 1 Preliminary

501 Application of div 3

This division applies for a petroleum authority in relation to all private land outside the area of the authority.⁴⁸⁷

Subdivision 2 Access rights and access agreements

502 Access rights of petroleum authority holder

- (1) Subject to section 503, the holder of a petroleum authority has the following rights—
 - (a) to cross the land if it is reasonably necessary to allow the holder to enter the area of the authority;
 - (b) to carry out activities on the land that are reasonably necessary to allow the crossing of the land.

Examples for paragraph (b)—

- 1 constructing a road or track
 - 2 opening a gate or fence
- (2) The rights under subsection (1) that may, under section 503, be exercised are the *access rights* for the authority.⁴⁸⁸
 - (3) Land to which the access rights apply is *access land* for the authority.

487 For land in the area of a mining lease see section 6 (Relationship with Mineral Resources Act) and the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

488 See however section 804 (Duty to avoid interference in carrying out authorised activities).

503 Restriction on exercise of access rights

- (1) The access rights may be exercised only if—
 - (a) the exercise of the rights is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
 - (b) the following have agreed orally or in writing to the exercise of the rights—
 - (i) if exercising the rights is likely to have a permanent impact on the land—each owner and the occupier of the land;
 - (ii) if exercising the rights is unlikely to have a permanent impact on the land—each occupier of the land.
- (2) An agreement mentioned in subsection (1)(b) is an *access agreement*.⁴⁸⁹
- (3) In this section—

permanent impact, on the land, means a continuing effect on the land or its use or a permanent or long-term adverse effect on its current lawful use by an occupier of the land.

Example of an exercise of the rights that is likely to have a permanent impact—

building a road

Example of an exercise of the rights that unlikely to have a permanent impact—

opening or closing a gate

504 Owner or occupier must not unreasonably refuse to make access agreement

- (1) An owner or occupier of the land must not, if asked by a petroleum authority holder, unreasonably refuse to make an access agreement for the exercise of the access rights.
- (2) For subsection (1), the owner or occupier does not unreasonably refuse merely because the owner or occupier

⁴⁸⁹ See also section 508(3) (Power of tribunal to decide access agreement).

asks for agreement to be subject to reasonable and relevant conditions offered by the owner or occupier.

- (3) If the holder asks the owner or occupier to make an access agreement and the owner or occupier has not, within 20 business days, made the agreement, the owner or occupier is taken to have refused to agree.

Note—

Either party may refer a refusal under subsection (1) or (3) to the tribunal to decide whether the refusal is unreasonable. See section 508.⁴⁹⁰

505 Principles for deciding whether access is reasonable

- (1) This section provides for matters to which regard must be had in deciding whether—
- (a) it is reasonably necessary for a petroleum authority holder to cross the land to allow the holder to enter the area of the petroleum authority; or
 - (b) it is reasonably necessary for the holder to carry out activities on the land to allow the crossing of the land; or
 - (c) the owner or occupier has unreasonably refused to make an access agreement.
- (2) The holder must first show that it not possible or reasonable to exercise the access rights by using a formed road.
- (3) After subsection (2) has been satisfied, the following must be considered—
- (a) the nature and extent of any impact the exercise of the access rights will have on the land and the owner or occupier's use and enjoyment of it;
 - (b) how, when and where and the period during which the holder proposes to exercise the access rights.

490 Section 508 (Power of tribunal to decide access agreement)

506 Provisions for access and access agreements

- (1) Section 497⁴⁹¹ applies for any entry to the land by a petroleum authority holder as if the entry were an entry to carry out authorised activities.
- (2) However—
 - (a) a written access agreement may include a waiver of entry notice for the entry; and
 - (b) if an access agreement provides for alternative provisions to section 497 for the entry, section 497 does not apply for so long as the alternative provisions are in force.
- (3) A written access agreement may include a compensation agreement in relation to the exercise or future exercise of access rights by the holder.⁴⁹²
- (4) This division does not limit or otherwise affect the ability of the owner or occupier to grant the holder a right of access to the land, including, for example, by the grant of an easement.

507 Access agreement binds successors and assigns

Subject to section 509,⁴⁹³ an access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

Subdivision 3 Tribunal resolution**508 Power of tribunal to decide access agreement**

- (1) If a dispute arises between a petroleum authority holder and an owner or occupier of the land (the *parties*) about a matter mentioned in section 505(1), any party to the dispute may apply to the tribunal for it to decide the matter.

491 Section 497 (Requirement for entry notice to carry out authorised activities)

492 For the authority holder's liability to compensate the owner or occupier, see section 531 (General liability to compensate).

493 Section 509 (Power of tribunal to vary access agreement)

- (2) In deciding the matter, the tribunal may impose conditions it considers appropriate for the exercise of the access rights.
- (3) Any conditions imposed under subsection (2) are taken to be—
 - (a) if there is already an access agreement between the parties—conditions of that agreement; or
 - (b) if there is no access agreement between the parties—an access agreement between the parties.

509 Power of tribunal to vary access agreement

- (1) An owner or occupier of the land or a petroleum authority holder may apply to the tribunal to vary any access agreement between them.
- (2) The tribunal may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.
- (3) Subsection (4) does not limit section 534.⁴⁹⁴
- (4) This section does not prevent the owner or occupier and the holder from agreeing to vary the access agreement.

510 Criteria for deciding access

In deciding an application under this subdivision, the tribunal must have regard to section 505(2) and (3).

Division 4 Provisions for dealings or change in ownership or occupancy

511 Entry notice or waiver of entry notice or access agreement not affected by permitted dealing

A permitted dealing with a petroleum authority does not affect an entry notice or waiver of entry notice or an access agreement given or made in relation to the authority.

⁴⁹⁴ Section 534 (Tribunal review of compensation)

512 Change in ownership or occupancy

- (1) If, after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
 - (a) the holder of the petroleum authority for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
 - (b) the requirement under section 497(1)(a)⁴⁹⁵ to give the notice at least 10 business days before entry, does not apply for the new owner or occupier for the entry period stated in the notice.
- (2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- (3) If the relevant petroleum authority holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must, within 15 business days, give the new owner or occupier a copy of the entry notice or waiver of entry notice.
- (4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or consent.

Division 5 Periodic notice after entry of land**513 Notice to owners and occupiers**

- (1) This section applies if —
 - (a) private land has been entered to carry out authorised activities for a petroleum authority; or
 - (b) access land for a petroleum authority has been entered in the exercise of the access rights over the land.

⁴⁹⁵ Section 497 (Requirement for entry notice to carry out authorised activities)

- (2) The authority holder must, within 3 months after the end of the period under subsection (3), (4) or (5), give each owner and occupier of the land a notice stating—
 - (a) what activities were carried out on the land during that period, and where they were carried out; or
 - (b) if no activities were carried out on the land during the period—that no activities were carried out on the land during that period.
- (3) If an entry notice was given for the entry to all owners or occupiers of the land, the period for subsection (2) is the period stated in the entry notice.
- (4) If all owners or occupiers of the land gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of following periods after the giving of the waiver of entry notice—
 - (a) either—
 - (i) for an authority to prospect—6 months; or
 - (ii) for another petroleum authority—1 year;
 - (b) if, within the period under paragraph (a), each owner or occupier of the land consented to a longer period—the longer period.
- (5) If an entry notice for the entry was given to some of the owners or occupiers and the rest of the owners or occupiers gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the periods under subsections (3) and (4).

Division 6

Access to carry out rehabilitation and environmental management

513A Right of access for authorised activities includes access for rehabilitation and environmental management

If, under this part, a petroleum authority holder has the right to enter private land to carry out authorised activities for the authority, the right includes the right to enter the land to carry out rehabilitation or environmental management required of

the holder under any relevant environmental requirement under the Environmental Protection Act.

Part 3 Public land⁴⁹⁶

Division 1 Public roads

Subdivision 1 Preliminary

514 Significant projects excluded from div 1

- (1) This division does not apply for a petroleum authority for a significant project.
- (2) Subsection (1) does not limit or otherwise affect conditions the Coordinator-General may, under the *State Development and Public Works Organisation Act 1971*, part 4, division 7,⁴⁹⁷ recommend for the authority.

515 What is a *notifiable road use*

- (1) A *notifiable road use*, for a petroleum authority, is—
 - (a) the use of a public road in the area of the authority for transport relating to a seismic survey or drilling activity; or
 - (b) the use of a public road at more than the threshold rate if the haulage relates to—
 - (i) the transportation of petroleum produced or processed in the area of the authority; or
 - (ii) the construction of a pipeline.

⁴⁹⁶ See however section 938 (Exclusion of ch 5, pt 3, div 1 for continuance of particular existing road uses).

⁴⁹⁷ *State Development and Public Works Organisation Act 1971*, part 4, division 7 (Relationship with other legislation)

- (2) Subsection (1)(b) applies even if the road is not on land in the area of the petroleum authority.
- (3) In this section—
- threshold rate*** means—
- (a) for a State-controlled road—50000t a year; or
- (b) for another public road—10000t a year.

Subdivision 2 Notifiable road uses

516 Notice of notifiable road use

- (1) It is a condition of each petroleum authority that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.⁴⁹⁸
- (2) The notice must—
- (a) be given—
- (i) at least 10 business days before the use starts; or
- (ii) within a shorter period agreed to by the public road authority in writing; and
- (b) state each of the following—
- (i) the public road proposed to be used;
- (ii) the type of haulage under the use;
- Examples of type of haulage—*
- vehicle type
 - material hauled
- (iii) the total weight of material proposed to be hauled;
- (iv) when the use is proposed to start and end;
- (v) the frequency of vehicle movements;

⁴⁹⁸ See also section 524 (Compensation to be addressed before carrying out notifiable road use).

- (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

517 Directions about notifiable road use

- (1) The public road authority for a public road may, by notice, give a petroleum authority holder a direction (a *road use direction*) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
 - (a) be reasonable; and
 - (b) only be about—
 - (i) preserving the condition of the road; or
 - (ii) the safety of road-users or the public; and
 - (c) be accompanied by, or include, an information notice about the decision to give the direction.

Examples of what a direction may be about—

- when the road may be used
 - the route for the movement of heavy vehicles
 - safety precautions the holder must take
- (3) The direction may also require the holder to—
 - (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and
 - (b) consult with the public road authority in carrying out the assessment.
 - (4) However—
 - (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
 - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed

under an EIS under the Environmental Protection Act, or a similar document under another Act.

518 Obligation to comply with road use directions

It is a condition of each petroleum authority that its holder must comply with any road use direction given to its holder relating to the authority, unless the holder has a reasonable excuse.

Subdivision 3 Compensation for notifiable road uses

519 Liability to compensate public road authority

- (1) The holder of each petroleum authority is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs, or will incur, that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
 - capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that, because of any of the uses, is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's **compensation liability** to the public road authority.
- (3) The compensation liability—
- (a) applies whether or not the holder has, under section 516, given notice of the use; and
 - (b) is subject to section 525;⁴⁹⁹ and

499 Section 525 (Compensation not affected by change in administration or holder)

- (c) is in addition to, and does not limit or otherwise affect, the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

520 Compensation agreement

- (1) A petroleum authority holder and the public road authority for a public road may enter into an agreement (a **compensation agreement**) about the holder's compensation liability to the public road authority relating to the road.
- (2) A compensation agreement may relate to all or part of the liability.
- (3) A compensation agreement must—
 - (a) be signed by, or for, the holder and the public road authority; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) each part of the notifiable road use to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
 - (a) extend the holder's compensation liability to the public road authority relating to the road to any renewal of the petroleum authority; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced.

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the petroleum authority, including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

521 Deciding compensation through tribunal

- (1) The public road authority for a public road or a petroleum authority holder may apply to the tribunal for it to decide the holder's compensation liability to the public road authority relating to the road.
- (2) The tribunal may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- (3) In making the decision, the tribunal may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

522 Criteria for decision

- (1) The criteria the tribunal must consider, in deciding a compensation application, include—
- (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been, paid from—
 - (i) amounts the petroleum authority holder has paid, or agreed to pay, the public road authority for notifiable road uses; or
 - (ii) rates and charges under the *Local Government Act 1993* paid or payable by the petroleum authority holder to the public road authority; and
 - (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the tribunal must have regard to—

- (a) any action taken, or proposed by, the petroleum authority holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

523 Tribunal review of compensation

- (1) This section applies if—
- (a) the compensation liability, or future compensation liability, of a petroleum authority holder to a public road authority has been agreed to under a compensation agreement or decided by the tribunal (the ***original compensation***); and
 - (b) there has, since the agreement or decision, been a material change in circumstances.

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) The public road authority or petroleum authority holder may apply to the tribunal for it to review the original compensation.
- (3) Sections 521 and 522 apply for the review as if the application were a compensation application.
- (4) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- (5) However, before making the decision, the tribunal must have regard to—
 - (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
 - (c) any change in the matters mentioned in section 522(1) since the original compensation was agreed or decided.

- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision, is for this Act, taken to be the original compensation.

524 Compensation to be addressed before carrying out notifiable road use

- (1) It is a condition of each petroleum authority that its holder must not carry out a notifiable road use on a public road unless—
- (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or
 - (b) the public road authority has given written consent to the carrying out of the use; or
 - (c) a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.⁵⁰⁰
- (2) A consent under subsection (1)(b) may be given for any renewal of the petroleum authority.

525 Compensation not affected by change in administration or holder

- (1) An agreement or decision under this part about compensation liability is binding on—
- (a) the relevant public road authority; and
 - (b) the relevant petroleum authority holder; and
 - (c) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 523.⁵⁰¹

500 See section 521(1) (Deciding compensation through tribunal).

501 Section 523 (Tribunal review of compensation)

Division 2 Other public land

526 Requirement for entry notice to carry out authorised activities

- (1) This section does not apply for a notifiable road use.⁵⁰²
- (2) A petroleum authority holder must not enter public land to carry out an authorised activity for the authority on public land⁵⁰³ unless—
 - (a) the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or

Example—

travelling on a public road in the area of the petroleum authority

- (b) the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an **entry notice**) of the proposed entry; or
- (c) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists, or may exist; or
- (d) the public land authority has agreed that an entry notice is not required.

Maximum penalty for subsection (2)—100 penalty units.

- (3) An agreement under subsection (2)(d) is a **waiver of entry notice**.

526A Waiver of entry notice

- (1) A waiver of entry notice—
 - (a) may be given only by signed writing; and
 - (b) must state each of the following—

502 For notifiable road uses see sections 516 (Notice of notifiable road use) and 517 (Directions about notifiable road use).

503 For private land, see part 2 (Private land).

See also section 516 (Notice of notifiable road use).

- (i) that the public land authority has been told it is not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The public land authority can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

526B Required contents of entry notice

- (1) An entry notice must state each of the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant petroleum authority holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
- (a) for an authority to prospect—6 months; or
 - (b) for another petroleum authority—1 year.
- (3) However, the entry period may be longer if the public land authority agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority in relation to the public land may state a different entry period from an entry notice given to another public land authority in relation to the public land.

- (5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.

527 Conditions public land authority may impose

- (1) A public land authority may, subject to section 426,⁵⁰⁴ impose relevant and reasonable conditions on a petroleum authority holder including, for example, about giving the public land authority—
- (a) notice of proposed entry—
 - (i) generally—at least 2 business days before the proposed entry; or
 - (ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or
 - (b) notice at stated intervals of activities carried out by, or for, the holder on the land.
- (2) However, the public land authority can not impose a condition that is the same, or substantially the same as, or inconsistent with, a condition of the petroleum authority or a relevant environmental authority.
- (3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a condition more stringent than the conditions of the environmental authority.
- (4) If the authority decides to impose a condition, other than a condition agreed to or requested by the holder, it must give the holder an information notice about the decision.
- (5) In carrying out the activity, the holder must comply with the conditions.

Maximum penalty for subsection (5)—100 penalty units.

504 Section 426 (Public road authority's obligations in aligning pipeline on road)

- (a) cross the land if it is reasonably necessary to allow the first authority holder to enter the area of the first authority; and
 - (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second authority.
- (3) Subsection (2) applies whether or not the authorised activity has already started.⁵⁰⁶

Part 5 **General compensation provisions**

531 **General liability to compensate**

- (1) This section does not apply for—
- (a) a public land authority in relation to a notifiable road use; or
 - (b) an effect that is, or is required to be, addressed in a make good agreement or a decision under chapter 2, part 9, division 6.⁵⁰⁷
- (2) The holder of each petroleum authority is liable to compensate each owner or occupier of private or public land that is in the area of, or is access land for, the petroleum authority (an *eligible claimant*) for—
- (a) any compensatable effect the eligible claimant suffers that are caused by—
 - (i) authorised activities for the petroleum authority carried out by, or for, the authority holder; and

⁵⁰⁶ For overlapping ATP land, see however, section 364 (Restriction on authorised activities on overlapping ATP land).

⁵⁰⁷ Chapter 2, part 9, division 6 (Complying with make good obligation)

- (ii) the carrying out of an activity by a person authorised by the holder if the holder has represented that the activity is an authorised activity for the authority; and
- (b) consequential damages the eligible claimant incurs because of a compensatable effect caused by authorised activities for the authority.
- (3) A petroleum authority holder's liability under subsection (2) to an eligible claimant is the holder's **compensation liability** to the claimant.
- (4) This section is subject to section 537.⁵⁰⁸
- (5) In this section—
compensatable effect means all or any of the following in relation to the eligible claimant's land—
 - (a) deprivation of possession of its surface;
 - (b) diminution of its value;
 - (c) diminution of the use made, or that may be made, of the land or any improvement on it;
 - (d) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (e) any cost or loss arising from the carrying out of activities under the petroleum authority on the land.

532 Compensation agreement

- (1) An eligible claimant and a petroleum authority holder may enter into an agreement (a **compensation agreement**) about the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.
- (2) A compensation agreement may relate to all or part of the liability or future liability.
- (3) A compensation agreement must—

⁵⁰⁸ Section 537 (Compensation not affected by change in ownership or occupancy)

- (a) be written and signed by, or for, the holder and the eligible claimant; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) details of each activity, or effects of the activity, to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
- (a) extend the holder's compensation liability to the claimant, or any future compensation liability that the holder may have to the claimant, to any renewal of the petroleum authority; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced; and

Examples—

- 1 A compensation agreement may provide for the construction of a road for the claimant.
 - 2 A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the petroleum authority, including a change in the extent of activities required under a later development plan for a petroleum lease.
- (c) provide for any compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.
- (5) If the petroleum authority is a pipeline or petroleum facility licence, a compensation agreement about the holder's compensation liability may be included in an easement relating to the licence.
- (6) This section does not limit the matters that may be provided for in a compensation agreement.

533 Deciding compensation through tribunal

- (1) An eligible claimant or a petroleum authority holder may apply to the tribunal for it to decide the holder's—
 - (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the authority proposed to be carried out by, or for, the holder.
- (2) However, the tribunal may decide the liability or future liability only to the extent it is not subject to a compensation agreement.
- (3) In hearing the application, the tribunal must, as much as practicable, ensure the hearing happens together with, or as closely as possible to, the hearing of any application to it for compensation that is, or may be, payable from the holder to the eligible claimant, under the Environmental Protection Act.

534 Tribunal review of compensation

- (1) This section applies if—
 - (a) the compensation liability, or future compensation liability, of a petroleum authority holder to an eligible claimant has been agreed to under a compensation agreement or decided by the tribunal (the *original compensation*); and
 - (b) there has, since the agreement or decision, been a material change in circumstances (the *change*).
- (2) The eligible claimant or the authority holder may apply to the tribunal for it to review the original compensation.
- (3) In carrying out the review, the tribunal may review the original compensation only to the extent it is affected by the change.
- (4) If the tribunal considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- (5) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.

- (6) If the decision is to amend the compensation, the original compensation, as amended under the decision, is for this Act, taken to be the original compensation.

535 Orders tribunal may make

- (1) The tribunal may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the tribunal may order non-monetary compensation as well as monetary compensation.

536 Compensation to be addressed before entry to private land

- (1) This section applies to the holder of a petroleum authority, other than a survey licence or petroleum facility licence.
- (2) The holder must not enter private land to carry out an authorised activity for the authority unless—
- (a) the holder owns the land; or
 - (b) the holder has the right, other than under this Act, to enter the land to carry out authorised activities for the authority; or

Example of a right, other than under this Act, for paragraph (b)—

an appropriate easement to construct or operate the pipeline the subject of a pipeline licence

- (c) each eligible claimant for the land is—
 - (i) a party to a compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the activity proposed to be carried out by the holder, and its effects; or
 - (ii) a party to an agreement (a *deferral agreement*) that a compensation agreement can be entered into after the entry; or
 - (iii) an applicant or respondent to an application under section 533 relating to the land; or

- (d) the entry is to preserve life or property or because of a dangerous situation or emergency that exists, or may exist.
- (3) A deferral agreement must—
 - (a) be written and signed by, or for, the holder and each eligible claimant for the land; and
 - (b) state each of the following—
 - (i) that the eligible claimant has been told the claimant is not required to sign the agreement before a compensation agreement has been entered into;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out;
 - (v) when it is proposed that all or part of the liability for compensation will be met;
 - (vi) the period for which the agreement has effect;
 - (vii) how the liability will be met.

537 Compensation not affected by change in ownership or occupancy

- (1) A compensation agreement or a tribunal decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on—
 - (a) the relevant eligible claimant; and
 - (b) the petroleum authority holder; and
 - (c) each of their successors and assigns, including successors and assigns for the area of the relevant petroleum authority.
- (2) Subsection (1) is subject to section 534.⁵⁰⁹

509 Section 534 (Tribunal review of compensation)

- (b) a contract, covenant or claim of right under a law of a State.

540 Ownership afterwards

- (1) Section 539 applies and continues to apply for the pipeline, and for any subsequent pipeline licence for the pipeline, if the petroleum tenure or pipeline licence ends or the land on which the pipeline is constructed ceases to be in the area of the petroleum tenure or licence.
- (2) However, the section is subject to—
 - (a) section 580;⁵¹² and
 - (b) any condition of the former petroleum tenure or any takeover or other condition of the former licence.
- (3) Also, if the pipeline is decommissioned under section 559⁵¹³ the petroleum tenure or licence holder, or former petroleum tenure or licence holder, may dispose of it to anyone else.

Division 2 Equipment and improvements

541 Application of div 2

- (1) This division applies if—
 - (a) equipment or improvements are taken, constructed or placed on land in the area of a petroleum authority; and
 - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the authority; and
 - (c) the authority continues in force.

512 Section 580 (Power of authorised person to ensure compliance)

513 Section 559 (Obligation to decommission pipelines)

- (2) However, this division—
- (a) does not apply for a pipeline;⁵¹⁴ and
 - (b) is subject to part 12.⁵¹⁵
- (3) In this section—
- equipment** includes machinery and plant.
- improvements**—
- (a) does not include a petroleum well, water observation bore or water supply bore; but
 - (b) does include any works constructed in connection with the well or bore.

542 Ownership of equipment and improvements

- (1) While the equipment or improvements are on the land, they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.⁵¹⁶
- (2) However, for a petroleum well, water observation bore or water supply bore, subsection (1) is subject to chapter 2, part 10, divisions 3 and 4.⁵¹⁷
- (3) Subsection (1) applies despite—
- (a) the plant or equipment having become part of the land; or
 - (b) the sale or other disposal of the land.
- (4) The equipment or improvements can not be—
- (a) levied or seized in execution; or

514 For pipelines, see sections 559 (Obligation to decommission pipelines) and 539 (General provision about ownership while tenure or licence is in force for pipeline).

515 Part 12 (Enforcement of end of authority and area reduction obligations)

516 See however section 560 (Obligation to remove equipment and improvements).

517 Chapter 2, part 10, divisions 3 (Transfers of petroleum wells, water observation bores and water supply bores) and 4 (Decommissioning of petroleum wells, water observation bores and water supply bores)

- (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.
- (5) This section applies despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

Part 7 Reporting

Division 1 Reporting provisions for petroleum tenures

Subdivision 1 General provisions⁵¹⁸

543 Requirement of petroleum tenure holder to report outcome of testing

- (1) This section applies if—
 - (a) an authority to prospect holder carries out testing mentioned in section 73(1); or
 - (b) a petroleum lease holder carries out testing mentioned in section 152(1).
- (2) The holder must, within 40 business days after the testing ends, lodge a report stating the outcome of the test at—
 - (a) the office of the department for lodging testing outcome reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

518 See also section 367 (Requirement for giving of copy of relinquishment report).

- (3) The report must also state how much associated water was taken during the testing.

544 Notice by petroleum tenure holder about discovery and commercial viability

- (1) If a petroleum tenure holder makes a petroleum discovery, the holder must, within 5 business days, lodge a notice of the discovery.
- (2) For subsection (1), if a petroleum tenure holder explores or tests for coal seam gas—
 - (a) the discovery of the presence of coal seam gas in a coal seam is not, of itself, a petroleum discovery; and
 - (b) the holder discovers coal seam gas only if it is actually produced from a petroleum well used for the exploration or testing.
- (3) A notice under subsection (1) must also state the geological significance of the discovery.
- (4) The holder, must within the relevant period, lodge a notice about whether or not petroleum production from the reservoir the subject of the notice is commercially viable, or potentially commercially viable, for the holder.
- (5) A notice under this section must be lodged at—
 - (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (6) In this section—

relevant period means—

 - (a) the period of 45 business days after the discovery; or
 - (b) if the chief executive has, within the 45 business days, agreed to a longer period—the longer period.

545 Relinquishment report by tenure holder

- (1) If part of the area of a petroleum tenure is relinquished as required or authorised under this Act,⁵¹⁹ its holder must, within 6 months, lodge a report—
- (a) describing—
 - (i) the authorised activities for the tenure carried out in the part; and
 - (ii) the results of the activities; and
 - (b) including other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- (2) The report must be lodged at—
- (a) the office of the department for lodging relinquishment reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.⁵²⁰

546 End of tenure report

- (1) If a petroleum tenure or water monitoring authority ends, the person who held the tenure or authority immediately before it ended must, within 6 months, lodge a report—
- (a) including each of the following—
 - (i) a summary of all authorised activities for the tenure or authority that have been carried out since it took effect;
 - (ii) a summary of the results of the activities;
 - (iii) an index of all reports lodged, as required under this Act, in relation to the activities;

519 See chapter 2, part 1, division 4, subdivision 2 (Standard relinquishment condition and related provisions), sections 62(4) (Deciding application), 148 (Power to require relinquishment), 329 (Power to impose relinquishment condition) and 790 (Types of noncompliance action that may be taken).

520 See also section 367 (Requirement for giving of copy of relinquishment report).

- (iv) a summary of all significant hazards created to future safe and efficient mining that, under section 690(1)(f) or 706⁵²¹ or a regulation, are required to be reported;
- (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;
- (vi) information about the amount and location of all petroleum and water produced from the area of the tenure or authority;
- (vii) any information related to information mentioned in subparagraph (vi) that may help the understanding of the amount and location of any remaining petroleum (including areas of ‘free gas’) and water from reservoirs produced;
- (viii) any information required to be reported under this Act that has not been previously reported; and
- (b) stating any other information prescribed under a regulation.

Maximum penalty—150 penalty units.⁵²²

- (2) A report under subsection (1) must be lodged at—
 - (a) the office of the department for lodging the report, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Subdivision 2 Records and samples

547 Requirement to keep records and samples

- (1) A petroleum tenure holder must, for the period and in the way prescribed under a regulation, keep the records and samples

521 Section 690 (Content requirements for safety reports) or 706 (Requirement to report prescribed incident)

522 See also section 552(3) (Obligation to lodge annual reports).

about authorised activities carried out under the petroleum tenure as prescribed under a regulation.

Maximum penalty—500 penalty units.

- (2) For subsection (1), the prescribed records may be—
- (a) basic exploration data; or
- Examples of basic exploration data—*
- seismic acquisition and processing reports
 - information obtained from airborne geophysical surveying
 - other information about petroleum or other materials at or below ground level
 - a well completion report for an exploration or appraisal well
- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.

548 Requirement to lodge records and samples

- (1) A person who, under section 547, is required to keep a record or sample, must, for the services of the State, lodge a copy of the record and a part of the sample within 6 months after the earlier of the following (the *required time*)—
- (a) the day the record or sample was acquired or made;
- (b) the day the relevant petroleum tenure ends.
- Maximum penalty—500 penalty units.
- (2) The copy of the record and part of the sample must be lodged at the following office (the *relevant office*)—
- (a) the office of the department for lodging the copy of the record and part of the sample, as stated in a gazette notice by the chief executive;
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) If the chief executive gives the person a notice asking the person for more of the sample, the person must lodge it at the relevant office within the reasonable time stated in the notice

(also the *required time*) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—
 - (a) the person asks for the extension before the required time; and
 - (b) the chief executive is satisfied the extension is necessary.
- (5) However, the extension must not end later than—
 - (a) for subsection (1)—6 months after the required time; or
 - (b) for subsection (3)—1 year after the required time.
- (6) Without limiting subsection (1), the use to which the State may put the copy of the record and the part of the sample include the building of a publicly available database to facilitate petroleum exploration for the services of the State.

Subdivision 3 Releasing required information

549 Meaning of *required information*

Required information, for a petroleum tenure, is information (in any form) about authorised activities carried out under the tenure that the tenure holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 553(2).

550 Public release of required information

- (1) The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
 - (a) publish, in the way prescribed under a regulation, required information for the tenure for public use,

including, for example, to support petroleum exploration, production and development;

- (b) on payment of a fee prescribed under a regulation, make it available to any person.
- (2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out solely in an area that is no longer in the area of the petroleum tenure.

Example—

The required information is a well completion report about a well drilled on particular land in the area of an authority to prospect. Subsection (1) ceases to apply if all of that land is relinquished under the relinquishment condition.

- (3) The authorisation is not affected by the ending of the tenure.

551 Chief executive may use required information

- (1) The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to the chief executive to use required information for —
 - (a) purposes reasonably related to this Act that are required for the tenure; or
 - (b) the services of the State.
- (2) The authorisation is not affected by the ending of the tenure.

Division 2 Reporting provisions for all petroleum authorities

552 Obligation to lodge annual reports

- (1) Each petroleum authority holder must, within 2 months after each of the authority's anniversary days, lodge a report (an *annual report*) for the 12 months that ended on the last anniversary day that includes the information about the authority prescribed under a regulation.

Maximum penalty—150 penalty units.

- (2) If a petroleum authority ends, its former holder must, within 2 months, lodge a report that includes the information prescribed under subsection (1) for the period from the authority's last anniversary day to when it ended.

Maximum penalty—150 penalty units.

- (3) A report under this section must be lodged at—
- (a) the office of the department for lodging annual reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (4) In this section—

anniversary day, for a petroleum authority, means each day that is the anniversary of the day the authority took effect.

553 Power to require information or reports about authorised activities to be kept or given

- (1) A regulation, or the chief executive, may, for the services of the State, require a petroleum authority holder to—
- (a) keep stated information, or types of information, about authorised activities carried out under the petroleum authority; or

Example of a prescribed way of keeping information—

in a stated digital format

- (b) lodge a notice giving stated information, or types of information, or stated reports at stated times or intervals about authorised activities carried out under the petroleum authority.

Example of a stated time—

for a report about a petroleum well, 6 months after its completion

- (2) For subsection (1), the information or report required to be given or kept may be—
- (a) basic exploration data; or

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Examples of basic exploration data—

- seismic acquisition, processing and interpretation reports
 - information obtained from airborne geophysical surveying
 - other information about petroleum or other materials at or below ground level
 - a well completion report for an exploration or appraisal well
- (b) opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data.
- (3) A notice under subsection (1)(b)—
- (a) may state—
- (i) a format required for giving the information; and
 - (ii) a degree of precision required for the giving of the information; and
- (b) must be lodged at—
- (i) the office of the department for lodging reports under this section, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

- (5) In this section—

information includes documents, records and samples.

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).⁵²³

⁵²³ *Copyright Act 1968* (Cwlth), section 183 (Use of copyright material for the services of the Crown)

Part 8 **General provisions for conditions and authorised activities**

Division 1 **Other mandatory conditions for all petroleum authorities**

554 **Operation of div 1**

This division provides for general mandatory conditions for all petroleum authorities.

Note—

- 1 The following provisions also impose mandatory conditions on all petroleum authorities—
 - chapter 2, part 1, divisions 1 and 4
 - chapter 2, part 2, divisions 1 and 5
 - chapter 2, part 10
 - chapter 3, part 4, division 4
 - chapter 5.⁵²⁴
- 2 For what is a mandatory condition, see section 20(2).⁵²⁵

555 **Obligation to prevent spread of declared pests**

- (1) The holder of a petroleum authority must take reasonable steps to ensure the holder and anyone else acting for the

524 Chapter 2 (Petroleum tenures and related matters), part 1 (Authorities to prospect), divisions 1 (Key authorised activities) and 4 (Key mandatory conditions for authorities to prospect)

Chapter 2, part 2 (Petroleum leases), divisions 1 (Key authorised activities) and 5 (Key mandatory conditions for petroleum leases)

Chapter 2, part 10 (General provisions for petroleum wells, water supply bores and water observation bores)

Chapter 3 (Provisions for coal seam gas), part 4 (Additional provisions for authorities to prospect and data acquisition authorities), division 4 (Conditions)

Chapter 5 (Common petroleum authority provisions)

525 Section 20 (What are the *conditions* of a petroleum authority)

holder does not disperse the reproductive material of any declared pest in—

- (a) entering or leaving land in the area of the authority; or
 - (b) carrying out an authorised activity for the authority.
- (2) However, subsection (1) does not apply if the dispersal is authorised under the *Land Protection (Pest and Stock Route Management) Act 2002*.

- (3) In this section—

declared pest means any of the following—

- (a) a declared pest animal or declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (b) an animal or plant declared under a relevant local law to be—
 - (i) a declared pest animal or declared pest plant; or
 - (ii) the equivalent (however called) of a declared pest animal or declared pest plant for the local law.

relevant local law means a local law of a local government the area of which includes the place at which the dispersal takes place.

reproductive material, of an animal or plant, means any part of the animal or plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of an animal—

egg or part of an egg, semen

Examples of reproductive material of a plant—

- 1 seed or part of a seed
- 2 bulb or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

556 Requirement to consider using formed roads

- (1) This section applies if, under this Act, the holder of a petroleum authority proposes to enter any land.

- (2) The authority holder must consider using any formed road that is available for the entry if using the road is practicable.
- (3) If the holder decides not to use the formed road, the holder must take reasonable steps to consult with the owner of the land before entering the land.
- (4) A failure to comply with this section does not invalidate or otherwise affect the entry.

557 Obligation to comply with Act and prescribed standards

- (1) The holder of a petroleum authority must—
 - (a) comply with this Act; and
 - (b) in carrying out an authorised activity for the authority, comply with—
 - (i) any standard that the authority provides for the activity; and
 - (ii) to the extent that the authority does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.
- (2) In this section—

standard includes an Australian Standard or a code or protocol.

558 Obligation to survey if Minister requires

- (1) The Minister may, by notice to the holder of a petroleum authority, require the holder to survey or re-survey the area of the authority within a stated reasonable period.
- (2) The holder must cause the survey or re-survey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must pay any costs incurred in complying with the notice.

Division 2 Provisions for when authority ends or area reduced

559 Obligation to decommission pipelines

- (1) The holder of a petroleum authority must, before the decommissioning day, decommission, in the way prescribed under a regulation, any pipeline in the area of the authority.

Maximum penalty—2000 penalty units.⁵²⁶

- (2) However, subsection (1)—
- (a) does not apply if the pipeline was constructed or operated under another petroleum authority; and
 - (b) ceases to apply if the operation of the pipeline becomes an authorised activity for another petroleum authority.
- (3) Also, subsection (1) does not apply for a pipeline if—
- (a) the petroleum authority is a pipeline licence; and
 - (b) the licence is surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.

- (4) In this section—

decommissioning day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the authority ends;
 - (ii) the day the land ceases to be in the area of the authority;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;
- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

526 See also section 539(3) and (4) (General provision about ownership while tenure or licence is in force for pipeline).

560 Obligation to remove equipment and improvements

- (1) This section applies for equipment or improvements in the area of a petroleum authority or on access land for the authority that are being, or have been, used for an authorised activity for the authority.
- (2) However, this section does not apply for—
 - (a) a petroleum well, pipeline, water observation bore or water supply bore;⁵²⁷ or
 - (b) equipment or improvements on land that, under section 101,⁵²⁸ ceases to be in the area of an authority to prospect.
- (3) The authority holder must, before the removal day, remove the equipment or improvements from the land, unless the owner of the land otherwise agrees.

Maximum penalty—1000 penalty units.

- (4) To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.⁵²⁹
- (5) In this section—

equipment includes machinery and plant.

removal day means the later of the following days—

- (a) the earlier of the following—
 - (i) the day the authority ends;
 - (ii) the day the land ceases to be in the area of the authority;
- (b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;

⁵²⁷ For petroleum wells, water observation bores and supply bores, see chapter 2, part 10 (General provisions for petroleum wells, water supply bores and water observation bores).

For pipelines, see sections 539 (General provision about ownership while tenure or licence is in force for pipeline) and 559 (Obligation to decommission pipelines).

⁵²⁸ Section 101 (Area of authority to prospect reduced on grant of petroleum lease)

⁵²⁹ For ownership of the equipment or improvements see section 542 (Ownership of equipment and improvements).

- (c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

561 Authorisation to enter to facilitate compliance with s 555 or div 2

- (1) The Minister may, by notice, authorise a former holder of a petroleum authority to enter any of the following land to comply with, or remedy a contravention of, section 555 or this division—
- (a) the land to which section 555 or this division applies (*primary land*);
 - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.⁵³⁰
- (2) Parts 2 (other than division 3), 3 and 5 and sections 20 and 557⁵³¹ apply to the former holder for the purpose of the authorisation as if—
- (a) the authority were still in force (the *notional authority*); and
 - (b) the former holder is the holder of the notional authority; and
 - (c) the primary land and any secondary land are in the area of the notional authority; and
 - (d) the compliance or the remedying of the contravention were authorised activities for the notional authority.
- (3) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must

530 See also section 580 (Power of authorised person to ensure compliance).

531 Parts 2 (Private land), 3 (Public land) and 5 (General compensation provisions)
 Part 2, division 3 (Access to private land outside area of petroleum authority)
 Sections 20 (What are the *conditions* of a petroleum authority) and 557 (Obligation to comply with Act and prescribed standards)

show, or make a reasonable attempt to show, the occupier the former holder's authorisation under this section.

Division 3 Provisions for authorised activities

562 General restriction on carrying out authorised activities

The carrying out of an authorised activity for a petroleum authority is subject to—

- (a) the provisions of the authority; and
- (b) compliance with the authority holder's rights and obligations under this chapter and chapters 2, 3, 4 and 9.

563 Who may carry out authorised activity for petroleum authority holder

- (1) An authorised activity for a petroleum authority may be carried out for the holder by any of the following persons acting within the scope of the person's authority from the holder—
 - (a) if the holder is a corporation—its officers and employees;
 - (b) the holder's employees or partners who are individuals;
 - (c) agents of, or contractors for, the holder;
 - (d) officers and employees of, or agents of, or contractors for, agents or contractors mentioned in paragraph (c).

Example—

A petroleum lease holder may also enter into a coordination arrangement under which another party to the arrangement may carry out an authorised activity for the lease. See section 234(1).

- (2) The authority may be express, or implied from—
 - (a) the nature of the relationship between the person and the holder; or
 - (b) the duties the person performs for the holder; or
 - (c) the duties a person mentioned in subsection (1) customarily performs.

Part 9 Petroleum register

564 **Petroleum register**

- (1) The chief executive must keep a register of details about—
 - (a) petroleum authorities; and
 - (b) coordination arrangements; and
 - (c) mortgages and subleases of petroleum authorities mentioned in section 568;⁵³² and
 - (d) trigger thresholds in relation to the make good obligation for petroleum tenures.
- (2) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.

565 **Keeping of register**

- (1) The chief executive must include in the petroleum register the information prescribed under a regulation.
- (2) If, under this Act, there is a change relating to information required to be kept in the register or to information that, under section 564(2) the chief executive keeps in the register, the chief executive must—
 - (a) amend the register to reflect the change; and
 - (b) record in the register—
 - (i) when the information was amended; and
 - (ii) for a permitted dealing—when it took effect or is to take effect.
- (3) For subsection (2), if the change requires approval under this Act, the change happens when the approval takes effect.

566 **Access to register**

The chief executive must—

532 Section 568 (What is a *permitted dealing*)

- (a) keep the petroleum register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
- (b) allow a person to take extracts, free of charge, from the register; and
- (c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.

567 Chief executive may correct register

- (1) The chief executive may correct the petroleum register if satisfied—
 - (a) the register is incorrect; and
 - (b) the correction will not prejudice the rights, recorded in the register, of a petroleum authority holder, a person who holds an interest in a petroleum authority or a person who is a party to a coordination arrangement.
- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

Part 10 Dealings

Division 1 Permitted dealings

568 What is a *permitted dealing*

- (1) Each of the following is a *permitted dealing*—
 - (a) a transfer of a petroleum authority, or of a share in a petroleum authority;
 - (b) a transfer of a pipeline the subject of a pipeline licence;
 - (c) a mortgage of a petroleum authority, or a share in a mortgage of a petroleum authority;
 - (d) a release, transfer or surrender of a mortgage, or a share in a mortgage, mentioned in paragraph (c);
 - (e) a sublease, or a share in a sublease, of a petroleum lease, as provided for under a coordination arrangement;
 - (f) a transfer of a sublease mentioned in paragraph (e), as provided for under the coordination arrangement.
- (2) However, a dealing mentioned in section 569(1) is not a permitted dealing.
- (3) In this section—

transfer includes—

- (a) a transmission by death; and
- (b) a transfer by operation of law; and

Example—

A petroleum authority is held by individuals as joint tenants and one of them dies. A transfer in relation to the authority includes a record of the death, to record the passing by survivorship of the deceased holder's share of the authority to the other holders.

- (c) a record of the change of name of a petroleum authority holder.

569 Prohibited dealings

- (1) The following dealings are prohibited—
 - (a) a transfer of a survey licence;
 - (b) a transfer of a pipeline authorised under section 33 or 110;⁵³³
 - (c) a dealing that has the effect of transferring part of the area of a petroleum tenure;
 - (d) a transfer of a pipeline licence, unless the pipelines the subject of the licence and the pipeline land for the licence are also to be transferred to the transferee of the pipeline licence;
 - (e) a transfer of a petroleum facility licence, unless the petroleum facility and petroleum facility land the subject of the licence are also to be transferred to the transferee of the licence;
 - (f) a transfer of a water monitoring authority, or of a share in a water monitoring authority, other than a transfer by operation of law under section 201;⁵³⁴
 - (g) a transfer of a data acquisition authority, or of a share in a data acquisition authority, other than a transfer by operation of law under section 182.
- (2) A dealing or transfer prohibited under subsection (1) is of no effect.

570 Conditions for permitted dealings

- (1) This section does not apply for a permitted dealing if it is a transfer of a pipeline required or made under a condition of a pipeline licence.
- (2) A permitted dealing has no effect until it has been approved under division 2.

533 Section 33 (Incidental activities) or 110 (Petroleum pipeline and water pipeline construction and operation)

See also part 6 (Ownership of pipelines, equipment and improvements), division 1 (Pipelines).

534 Section 201 (Provision for who is the authority holder)

- (3) A permitted dealing, once approved, takes effect on—
 - (a) the day the dealing is concluded; or
 - (b) if, under section 573(5), the approval provides for a later day for the dealing to take effect—that later day.
- (4) The approval of a permitted dealing does not of itself give it any more effect or validity than it would have had, had subsection (2) not been enacted.

Division 2 Obtaining approval for permitted dealing

571 Minister may give indication for proposed permitted dealing

- (1) A party to a proposed permitted dealing may ask the Minister, before concluding the dealing, to indicate—
 - (a) whether the Minister is likely to approve of it; and
 - (b) if conditions are likely to be imposed on the dealing—what the conditions are likely to be.
- (2) The request may be made in any way the Minister considers appropriate.
- (3) However, the Minister must not consider the request unless the request fee prescribed under a regulation has been paid.
- (4) The party must give the Minister the information the Minister requires to give the indication.
- (5) In considering the request the Minister must consider the matters mentioned in section 574 as if the request were an application for approval of a permitted dealing.

572 Applying for approval

- (1) A holder of a relevant petroleum authority, pipeline or interest who is party to a permitted dealing may apply for approval of the dealing.
- (2) The application must be—

- (a) in the approved form; and
- (b) lodged at—
 - (i) the office of the department for lodging applications to approve permitted dealings, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
- (c) accompanied by each of the following—
 - (i) the instrument for the dealing, signed by the parties to the dealing, and a copy of it certified to be a true copy of the original;
 - (ii) for a transfer of a share in a petroleum authority, a written consent to the transfer by—
 - (A) each person who holds that interest; and
 - (B) if the interest is subject to a mortgage—the mortgagee;
 - (iii) the fee prescribed under a regulation.

573 Deciding application

- (1) The Minister may decide to grant or refuse the approval.
- (2) However, for a transfer of a petroleum authority, other than an exempt transfer, the approval may be granted only if the proposed transferee—
 - (a) is a holder of the relevant environmental authority for the petroleum authority; and
 - (b) either—
 - (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
 - (ii) the administering authority under that Act has given the Minister notice that the administering authority has not required financial assurance

under that Act from the proposed transferee for the environmental authority.

- (3) Also, the approval must be granted if—
- (a) the proposed permitted dealing is any of the following—
 - (i) a mortgage of a petroleum authority or of a share in a mortgage of a petroleum authority;
 - (ii) a release, transfer or surrender of a mortgage, or a share in mortgage, mentioned in subparagraph (i);
 - (iii) a sublease, or a share in a sublease, of a petroleum lease, as provided for under a coordination arrangement;
 - (iv) a transfer of a sublease, or a share in a sublease, mentioned in subparagraph (iii), as provided for under the coordination arrangement; or
 - (b) subject to subsection (2)—under section 571, an indication of the approval has been given for the proposed permitted dealing and any conditions imposed under that section have been complied with.
- (4) Despite subsection (3)(b), the approval may be refused if—
- (a) the request for the indication contained incorrect material information or omitted material information; and
 - (b) had the Minister been aware of the discrepancy, the Minister would not have given the indication.
- (5) The approval may provide that it has effect from when the dealing was concluded or a later stated day.
- (6) The Minister may, as a condition of deciding to grant the approval, require the proposed transferee to give, under section 488,⁵³⁵ security for the petroleum authority as if the proposed transferee were an applicant for the authority.
- (6A) If the applicant does not comply with the requirement, the application may be refused.

535 Section 488 (Power to require security for petroleum authority)

- (7) On refusal of the approval, the applicant must be given an information notice about the decision to refuse.
- (8) In this section—
- exempt transfer* means a transfer under which—
- (a) the proposed transferee is someone who holds the same Australian Business Number to any proposed transferor; or
 - (b) all of one holder's share in the petroleum authority will be transferred to another holder of the petroleum authority.

574 Criteria for decision

- (1) This section does not apply—
- (a) if, under section 573(3), the approval must be granted; or
 - (b) to an exempt transfer under section 573.
- (2) The matters that must be considered in deciding whether to approve the permitted dealing include each of the following—
- (a) the application and any additional information given for the application;
 - (b) hardship the applicant would suffer if the dealing is not approved;
 - (c) for a transfer of a petroleum authority—
 - (i) the relevant criteria under chapter 2 or 4 to obtain the authority; and
 - (ii) whether or not the transfer will disadvantage activities under the authority; and
 - (iii) the role the proposed transferee would play in authorised activities for the authority;
 - (d) if the petroleum authority is a petroleum tenure, whether, in relation to the tenure—
 - (i) any petroleum royalty is payable and unpaid by its holder; or

- (ii) the holder has failed to comply with section 594, 595, 599 or 602.⁵³⁶
- (e) the public interest.

Part 11 Surrenders

574A Authority to prospect can not be surrendered

An authority to prospect can not be surrendered.

575 Requirements for surrendering another type of petroleum authority

- (1) The holder of a petroleum authority, other than an authority to prospect, may surrender all or part of the area of the authority only if, under this part—
 - (a) an application has been made for approval of the surrender; and
 - (b) the surrender has been approved.
- (2) In this section—

surrender, for a petroleum authority, does not include a relinquishment of an area if the relinquishment is required or authorised under—

 - (a) section 148; or
 - (b) a relinquishment condition for the authority; or
 - (c) a relinquishment requirement under section 791.⁵³⁷

536 Section 594 (Obligation to lodge royalty return), 595 (Fee for late lodgment of royalty return), 599 (Annual royalty returns) or 602 (Interest on unpaid petroleum royalty or additional petroleum royalty)

537 Sections 148 (Power to require relinquishment) and 791 (When noncompliance action may be taken)

576 Requirements for making surrender application

- (1) A surrender application must be—
 - (a) in the approved form; and
 - (b) lodged at—
 - (i) the office of the department for lodging surrender applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive; and
 - (c) accompanied by the fee prescribed under a regulation.
- (2) A surrender application must also be accompanied by a report by the applicant, containing the information prescribed under a regulation about—
 - (a) authorised activities for the authority carried out on the area the subject of the application; and
 - (b) the results of the activities.

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

577 Notice of application required for particular pipeline licences

- (1) This section applies only if the petroleum authority is a pipeline licence through which fuel gas is transported.
- (2) A surrender application can not be made for the authority unless the holder has, at least 3 months before the application is lodged, lodged a notice of the holder's intention to make the application (an *application notice*).
- (3) The application notice must—
 - (a) state the reasons for the proposed surrender; and
 - (b) be lodged at—
 - (i) the office of the department for lodging application notices, as stated in a gazette notice by the chief executive; or

- (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (4) The chief executive may, after the lodging of the application notice, give the holder notice requiring the holder to give the chief executive further relevant written information by a reasonable stated day.
- (5) The holder must comply with the chief executive's notice unless the holder has a reasonable excuse.

Maximum penalty for subsection (5)—500 penalty units.

578 Deciding application

- (1) The Minister may approve a surrender only if—
 - (a) up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and
 - (b) the Minister considers the surrender is not against the public interest; and
 - (c) for a surrender of all of the area of the petroleum authority—all of the relevant environmental authority has been cancelled or surrendered; and
 - (d) for a surrender of part the area of the petroleum authority—the relevant environmental authority has been amended or partially surrendered in a way that reflects the partial surrender of the petroleum authority.
- (2) The matters that must be considered in deciding whether to approve a surrender include the extent to which the applicant has complied with the conditions of the authority.
- (3) If the application is for part of the area of a petroleum authority, the surrender may be approved subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the area of the authority in a stated way that the Minister considers appropriate.⁵³⁸

538 See section 848 (Power to correct or amend).

579 Notice and taking effect of decision

- (1) On approval of a surrender, the applicant must be given notice of the decision.
- (2) A surrender takes effect on the day after the decision is made.
- (3) The applicant must be given an information notice about—
 - (a) a decision to refuse to approve a surrender; or
 - (b) a decision to approve a surrender subject to the applicant's written agreement to the Minister amending the petroleum authority in a stated way.
- (4) However, subsection (3) does not apply for an amendment mentioned in subsection (3)(b) if the applicant has agreed in writing to the amendment.

Part 12 Enforcement of end of authority and area reduction obligations

580 Power of authorised person to ensure compliance

- (1) This section applies if the holder, or former holder, of a petroleum authority has not complied with section 292, 559 or 560 in relation to land (the *primary land*).⁵³⁹
- (2) A person authorised (the *authorised person*) by the chief executive may, by complying with section 581, exercise the following powers (*remedial powers*)—
 - (a) enter the primary land and do all things necessary to ensure the requirement is complied with; and
 - (b) enter any other land (*secondary land*) necessary or desirable to cross for access to the primary land.

⁵³⁹ Section 292 (Obligation to decommission), 559 (Obligation to decommission pipelines) or 560 (Obligation to remove equipment and improvements)

- (3) However, remedial powers do not include power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) The authorisation—
 - (a) must be written; and
 - (b) may be given on conditions the Minister considers appropriate.

581 Requirements for entry to ensure compliance

- (1) Remedial powers may be exercised in relation to the primary or secondary land under section 580 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
 - (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
 - (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has, under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.
- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person's authorisation under this section.

582 Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

583 Notice of damage because of exercise of remedial powers

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the owner or occupier may claim compensation under section 584 from the State.

584 Compensation for exercise of remedial powers

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise, or purported exercise, of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

585 Ownership of thing removed in exercise of remedial powers

- (1) This section applies if—
 - (a) remedial powers are exercised in relation to land; and
 - (b) in the exercise of the powers a thing is removed from the land; and
 - (c) immediately before the removal, the thing was the property of—
 - (i) the holder, or former holder, of a petroleum authority in relation to whom the powers were exercised; or
 - (ii) an agent of, or contractor for, the holder.
- (2) On the removal, the thing becomes the property of the State.
- (3) The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.
- (4) The chief executive may deal with the thing for the State.
- (5) If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.⁵⁴⁰

586 Recovery of costs of and compensation for exercise of remedial power

- (1) The State may recover from the responsible person as a debt any—
 - (a) reasonable costs the State, or an authorised person under section 580, incurs in exercising a remedial power; and
 - (b) compensation payable by the State under section 584 in relation to the exercise of the remedial power.⁵⁴¹

540 See also section 586(2) (Recovery of costs of and compensation for exercise of remedial power).

541 See also section 841 (Additional orders that may be made on conviction).

(2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 585 must be deducted from the amount claimed for the costs.

(3) In this section—

relevant net proceeds of sale means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 585.

responsible person means the holder, or former holder, of the petroleum authority in relation to which the remedial powers were exercised.

Part 13 Miscellaneous provisions

587 **Minister's power to ensure compliance by petroleum authority holder**

(1) This section applies if—

- (a) the holder of a petroleum authority has not complied with a requirement, under this Act, of the holder; and
- (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.

(2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—

- (a) subsections (3) and (4) have been complied with; or
- (b) the holder has agreed to the Minister taking the action.

(3) The Minister must give the holder notice—

- (a) stating the requirement and the action the Minister proposes to take; and
- (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed action at—

- (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under paragraph (i)—the office of the chief executive.
- (4) Any submissions lodged by the holder within the stated period must be considered before deciding to take the action.
 - (5) A decision to take the action does not take effect until the holder is given an information notice about the decision.
 - (6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).⁵⁴²

588 Interest on amounts owing to the State other than for petroleum royalty

- (1) This section does not apply in relation to petroleum royalty.⁵⁴³
- (2) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.

Examples of an amount that may be owing under this Act—

annual or other rent, a civil penalty for nonpayment of annual rent or an annual licence fee

- (3) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- (4) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (5) Subsection (4) applies despite any order or direction of the payer.

⁵⁴² See also section 841 (Additional orders that may be made on conviction).

⁵⁴³ For interest on unpaid petroleum royalty, see section 602 (Interest on unpaid petroleum royalty or additional petroleum royalty).

(6) In this section—

relevant day means the following—

- (a) for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
- (b) for another amount—the day the amount becomes owing.

589 Recovery of unpaid amounts

(1) If a provision of this Act requires a petroleum authority holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

(2) In this section—

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

Chapter 6 Petroleum royalty

Part 1 Imposition of petroleum royalty

590 Imposition of petroleum royalty on petroleum producers

(1) A petroleum producer must pay the State petroleum royalty for petroleum that the producer produces.

(2) The petroleum royalty—

- (a) must be paid on or before the time prescribed under a regulation; and
- (b) is payable at the rate prescribed under a regulation on the value of the petroleum at the prescribed time.

(3) The value of petroleum for the petroleum royalty is the value provided for under a regulation or worked out in the way prescribed under a regulation.

- (4) This section is subject to any exemption under section 591 or 591A.

591 General exemptions from petroleum royalty

- (1) Petroleum produced on or after 31 December 2004 is exempt from the petroleum royalty if the Minister is satisfied—
- (a) the petroleum was unavoidably lost before it could be measured; or
 - (b) the petroleum was used—
 - (i) if it was produced under a petroleum tenure or 1923 Act petroleum tenure—in the production of petroleum from that tenure; or
 - (ii) if the petroleum is coal seam gas—for mining the coal that produced the gas; or
 - (c) that, before the petroleum was produced in the State, it was produced outside the State and injected or reinjected into a natural underground reservoir in the State; or
 - (d) the petroleum is petroleum on which petroleum royalty has already been paid; or
 - (e) the petroleum was flared or vented as part of testing for the presence of petroleum during the drilling of a well.
- (2) However—
- (a) subsection (1) ceases to apply if, under chapter 2, part 6, division 3,⁵⁴⁴ the petroleum becomes the property of the State; and
 - (b) subsection (1)(c) does not apply if, after the petroleum royalty was paid, property in the petroleum is taken to have passed to the State under chapter 2, part 6, division 3.
- (3) Despite subsection (1)(b)(ii), if the first underground mining of coal in a mining lease commenced before 31 December

⁵⁴⁴ Chapter 2, part 6, division 3 (Provisions for stored petroleum or prescribed storage gas after petroleum lease ends)

2004, petroleum produced on the mining lease and used beneficially for mining under the mining lease is exempt from petroleum royalty.

- (4) However, subsection (5) applies if the petroleum mentioned in subsection (1)(b)(ii) or subsection (3) is used to generate electricity that is—
 - (a) partly used for mining under the mining lease; and
 - (b) partly used for another purpose.
- (5) Subsection (1)(b)(ii) and subsection (3) apply only to the proportion of the petroleum that is equivalent to the proportion of the electricity generated from the petroleum that is used for mining under the mining lease.
- (6) In this section—

petroleum tenure includes a 1923 Act petroleum tenure.

591A Exemption for production testing

- (1) This section applies if—
 - (a) under section 73 or 152,⁵⁴⁵ a petroleum tenure holder carries out production testing in relation to a particular petroleum well (the *relevant well*); or
 - (b) under a 1923 Act petroleum tenure, the tenure holder carries out production testing in relation to a particular petroleum well (also the *relevant well*).
- (2) If—
 - (a) petroleum produced from the relevant well is coal seam gas or natural gas; and
 - (b) the gas is flared or vented; and
 - (c) the gas is, within the period provided for under subsection (3) produced as part of the production testing;

545 Section 73 or 152 (Permitted period for production or storage testing)

petroleum royalty is only payable on the amount of the petroleum flared or vented during the period that is more than 3000000m³.

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

592 Minister may decide measurement if not made or royalty information not given

- (1) If—
- (a) the measurement of, or information about, petroleum is required for the purpose of a royalty return; and
 - (b) the measurement has not been made or the information has not been given or lodged as required under this Act (whether or not a royalty return has been lodged);

the Minister may decide what the required measurement or information is.⁵⁴⁶

- (2) The decided measurement or information is taken to be the required measurement or information.
- (3) On the making of the decision, the relevant petroleum producer must be given an information notice about the decision.
- (4) To remove any doubt, it is declared that the decision does not relieve anyone of an obligation under this Act to make the measurement or give or lodge information.

⁵⁴⁶ See also chapter 8 (Petroleum and fuel gas measurement) and section 801 (Petroleum producer's measurement obligations).

Part 2 Royalty returns

593 Application of pt 2

- (1) This part applies to a petroleum producer for each month in which—
 - (a) the producer produces petroleum; or
 - (b) petroleum that has, at any time, been produced by the producer is—
 - (i) disposed of by the producer, by supplying it to anyone else, flaring or venting it or otherwise; or
 - (ii) stored for the producer in a natural underground reservoir.
- (2) This part applies whether or not the producer is or was, under part 1, required to pay petroleum royalty for the production.

594 Obligation to lodge royalty return

- (1) This section applies subject to sections 596 and 598.
- (2) The producer must, on or before the last business day of the month immediately following the month in which the petroleum was produced, disposed of or stored, lodge a written return containing the information prescribed under a regulation about the production, disposal or storage at—
 - (a) the office of the department for lodging royalty returns, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—500 penalty units.

- (3) A return under subsection (2) is a *royalty return*.
- (4) Information prescribed under subsection (2) is the *royalty information*.

595 Fee for late lodgment of royalty return

- (1) This section applies if —

- (a) the producer does not lodge a royalty return for the production, disposal or storage; or
 - (b) a purported royalty return lodged for the production, disposal or storage does not contain all of the royalty information.
- (2) The obligation under section 594 to lodge a royalty return continues to apply until the section is complied with.
 - (3) When the royalty return is lodged, the return must be accompanied by the late fee prescribed under a regulation.
 - (4) The late fee applies and is payable as well as any penalty imposed under section 594.

596 Approval to use estimates for royalty return

- (1) The Minister may decide to give a producer an approval for the producer to give estimates of particular royalty information for 1 or more royalty returns.
- (2) The approval—
 - (a) may be given subject to conditions; and
 - (b) must state the period for which the approval is given.

597 Petroleum producer's obligations if use of estimates approved

- (1) This section applies if an approval is given under section 596, whether or not it has been withdrawn.
- (2) The producer must take any steps required by the Minister to verify whether estimates given under the approval are reasonably accurate.

Maximum penalty—500 penalty units.

- (3) The producer must, on or before the last business day of the third month immediately following the end of the period for which the approval was given (the *approval period*), lodge a reconciliation return at—
 - (a) the office of the department for lodging royalty returns, as stated in a gazette notice by the chief executive; or

- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—500 penalty units.

- (4) The reconciliation return must state—
 - (a) information required for royalty returns on the basis of the approval period; and
 - (b) what adjustments have been made to the petroleum royalty payable.
- (5) The producer must, on or before the last business day of the third month immediately following the end of the approval period, pay any shortfall in the petroleum royalty payable because of the use of the estimate.⁵⁴⁷

598 Obligation to disclose inaccurate information

- (1) If the producer discovers that information stated in a royalty return or in a reconciliation return lodged under section 597 is inaccurate, the producer must, as soon as practicable, disclose the inaccuracy to the Minister.
- (2) The inaccuracy may be disclosed in a royalty return.
- (3) Subsection (2) does not limit the ways in which the inaccuracy may be disclosed.

599 Annual royalty returns

- (1) This section applies to the producer for so long as, at any time during any royalty return period, there is petroleum—
 - (a) that is the property of the producer; and
 - (b) for which petroleum royalty is, or could be, payable by the producer.
- (2) The producer must lodge an annual royalty return for each royalty return period at—

⁵⁴⁷ See also section 602 (Interest on unpaid petroleum royalty or additional petroleum royalty).

- (a) the office of the department for lodging royalty returns, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Maximum penalty—500 penalty units.

- (3) Each annual royalty return must—
 - (a) state the royalty information for the royalty return period to which the return relates; and
 - (b) be lodged within 3 months after the end of the royalty return period to which the return relates.
- (4) In this section—

royalty return period means—

- (a) each 12 month period ending on the following day—
 - (i) 30 June or 31 December, as decided by the Minister and notified to the producer;
 - (ii) if no day has been notified under subparagraph (i), whichever of those days is first to happen after the later of the following—
 - (A) the commencement of this section;
 - (B) the producer first produces petroleum for which petroleum royalty is, or could be, payable by the producer; and
- (b) if, on the commencement of this section, the producer is not producing petroleum—the period from the commencement to the start of the first royalty return period under paragraph (a); and
- (c) if, on the commencement, the producer has property in petroleum for which petroleum royalty is, or could be, payable at any time—the 12 month period ending on the 30 June or 31 December to first happen after the commencement; and
- (d) each following 12 month period after the royalty return period that applies under paragraph (a), (b) or (c).

Part 3 **Payment of petroleum royalty**

600 **Overpayments**

- (1) This section applies if the actual amount paid by a petroleum producer for petroleum royalty is more than the petroleum royalty that was payable by the producer.
- (2) The Minister must refund the difference between the amount paid by the producer and the amount that was payable by the producer.
- (3) The refund may be made by crediting the difference against any amount the Minister is reasonably satisfied is, or will become, payable by the producer for petroleum royalty or unpaid petroleum royalty interest.
- (4) No interest is payable on the difference refunded.

601 **Underpayments**

- (1) This section applies, subject to sections 596 and 597,⁵⁴⁸ if an actual amount paid by a petroleum producer for petroleum royalty is less than the amount of the petroleum royalty that was payable by the producer.
- (2) The difference between the amount paid and the amount payable by the producer is taken to have been owing and unpaid as part of the petroleum royalty from when the royalty was payable by the producer under part 1.
- (3) If the difference—
 - (a) was brought about by the use of estimates in royalty returns, as approved under section 596; and
 - (b) is more than 15% of the petroleum royalty that was payable by the producer;the producer must pay the State an additional petroleum royalty of 25% of the difference.

⁵⁴⁸ Sections 596 (Approval to use estimates for royalty return) and 597 (Petroleum producer's obligations if use of estimates approved)

- (4) Subsection (2) does not apply if the Minister, by notice to the producer, waives the requirement to pay under that subsection, in whole or part.
- (5) However, the Minister may waive the requirement only if the Minister is satisfied the producer made a genuine mistake and that, in the circumstances, the waiver is justified.
- (6) The additional petroleum royalty is taken to have been payable from the last day, under section 597(3), for lodgment by the producer of a reconciliation return in relation to the difference.

602 Interest on unpaid petroleum royalty or additional petroleum royalty

- (1) This section applies if a person does not pay an amount for petroleum royalty that is payable under part 1, or for additional petroleum royalty that is payable under section 601.
- (2) The Minister may, by notice, require the person to pay the State interest on the amount at the rate prescribed under a regulation.
- (3) Interest payable under subsection (2) is taken to form part of the petroleum royalty.
- (4) The interest accrues daily on the amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.

603 Recovery of unpaid petroleum royalty and interest

If a petroleum producer does not pay—

- (a) petroleum royalty for petroleum produced by the producer that is payable under part 1; or
- (b) additional petroleum royalty that is payable under section 601; or
- (c) unpaid petroleum royalty interest payable by the producer;

the State may recover from the producer as a debt the amount of the petroleum royalty or interest.⁵⁴⁹

604 Certificate of unpaid petroleum royalty

- (1) This section applies if the Minister is of the opinion, based on information available to the Minister and any estimate by the Minister, that an amount for petroleum royalty is payable and unpaid by a petroleum producer.
- (2) The Minister may give the producer a notice—
 - (a) stating that the Minister is of the opinion that the amount is payable and unpaid by the producer for petroleum royalty; and
 - (b) stating the facts and circumstances forming the basis for the opinion; and
 - (c) inviting the producer to lodge, at the following office, submissions, within a stated reasonable period, as to why the producer should not pay the amount—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief executive;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (3) The Minister must consider any submissions lodged within the stated period by the producer.
- (4) If, after complying with subsection (3), the Minister is satisfied an amount for petroleum royalty is payable and unpaid by the producer, the Minister may give the producer a certificate stating that the amount is payable and unpaid.
- (5) The certificate must be accompanied by, or include, an information notice about the decision that the amount is payable and unpaid.
- (6) In any proceeding under or in relation to this Act, the certificate, or a copy of the certificate, is evidence that the amount is payable and unpaid by the producer.

⁵⁴⁹ See also section 850 (Joint and several liability for conditions and for debts to State).

Part 4 Monitoring payment of petroleum royalty

Division 1 Audits by approved auditors

605 Appointment and qualifications

- (1) The chief executive may appoint a person, whether or not a public service officer, as an approved auditor for this part.
- (2) However, the chief executive may appoint a person as an approved auditor only if—
 - (a) the person is—
 - (i) a member of CPA Australia who is entitled to use the letters ‘CPA’ or ‘FCPA’; or
 - (ii) a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters ‘CA’ or ‘FCA’; or
 - (iii) a member of the National Institute of Accountants who is entitled to use the letters ‘MNIA’, ‘FNIA’, ‘PNA’ or ‘FPNA’; or
 - (b) the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience to carry out an audit under this division.
- (3) Also, a person who is not a public service officer can only be appointed as an approved auditor to audit petroleum producers who are named in the auditor’s instrument of appointment.
- (4) An appointment mentioned in subsection (3)—
 - (a) can only be for a period of 6 months; but
 - (b) may be renewed if the period of the renewed appointment is for no more than 6 months.

606 Appointment conditions and limit on powers

- (1) An approved auditor holds office on any conditions stated in—
 - (a) the auditor's instrument of appointment; or
 - (b) a signed notice given to the auditor; or
 - (c) a regulation.
- (2) Without limiting subsection (1), the instrument of appointment, a signed notice given to the auditor or a regulation may—
 - (a) limit the auditor's functions or powers under this Act; or
 - (b) require the auditor to give the chief executive stated information or a report about the performance of the auditor's functions or the exercise of the auditor's powers.
- (3) In this section—

signed notice means a notice signed by the chief executive.

607 Issue of identity card

- (1) The chief executive must issue an identity card to each approved auditor.
- (2) The identity card must—
 - (a) contain a recent photo of the auditor; and
 - (b) contain a copy of the auditor's signature; and
 - (c) identify the person as an approved auditor under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

608 Production or display of identity card

- (1) In exercising a power or performing a function under this Act in relation to a person, an approved auditor must produce the

auditor's identity card for the person's inspection if asked by the person.

- (2) However, if it is not practicable to comply with subsection (1), the auditor must produce the identity card for the person's inspection at the first reasonable opportunity.

609 When approved auditor ceases to hold office

- (1) An approved auditor ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the auditor ceases to hold office;
 - (c) the auditor's resignation takes effect.
- (2) Subsection (1) does not limit the ways an approved auditor may cease to hold office.
- (3) In this section—

condition of office means a condition on which the auditor holds office.

610 Revocation of approved auditor's appointment

The chief executive may revoke an approved auditor's appointment.

611 Resignation

An approved auditor may resign by a signed notice given to the chief executive.

612 Return of identity card

A person who ceases to be an approved auditor must return the person's identity card to the chief executive within 20 business days after ceasing to be an approved auditor, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

613 Approved auditor's power to audit

- (1) An approved auditor may audit a petroleum producer to monitor whether—
 - (a) the producer has paid petroleum royalty as required under part 1; and
 - (b) petroleum royalty will be payable by the producer.
- (2) The decision to carry out the audit may be made on a random or other basis not directly connected with the producer.

614 Application of ch 10, pt 1, divs 2–4

Chapter 10, part 1, divisions 2 to 4 apply for an approved auditor carrying out, or proposing to carry out, functions under section 613 as if the auditor were an authorised officer carrying out, or proposing to carry out, functions of an authorised officer.

Division 2 Audits by auditor-general**615 Auditor-general's power to audit**

- (1) The auditor-general may, at the Minister's request, audit a petroleum producer to monitor whether—
 - (a) the producer has paid petroleum royalty as required under part 1; or
 - (b) petroleum royalty will be payable by the producer.
- (2) The request may be made on a random or other basis not directly connected with the producer.

616 Powers in carrying out audit

- (1) The auditor-general has, in carrying out an audit under section 615, all the powers the auditor-general has under the *Financial Administration and Audit Act 1977* (the *FAA*) as if—
 - (a) the petroleum producer were a public sector entity under that Act; and

- (b) the auditor-general were carrying out an audit under that Act in relation to the producer as a public sector entity; and
 - (c) a reference in section 85 of that Act to an audit of the consolidated fund account were a reference to an audit under section 615.
- (2) The FAA, sections 88 to 92 and 94 apply for the applied exercise of powers under subsection (1) as if a reference in the sections to the exercise of a power included the exercise of a power under subsection (1).
- (3) For the FAA, sections 92 and 94, as applied under subsection (2)—
- (a) a reference to the FAA includes a reference to this Act; and
 - (b) the reference in section 92(2)(d) to duties includes a reference to the functions mentioned in section 615(1).

617 Report on audit

- (1) The auditor-general must after completing an audit under section 615, prepare a report about the audit and give the report to the Minister.
- (2) The report may state whether or not petroleum royalty is payable by the relevant petroleum producer, and its amount.
- (3) In any proceeding under or in relation to this Act to which the producer is a party, the report is evidence of any matter stated in the report.

Chapter 7 Fuel gas quality and characteristics for consumers

Part 1 Preliminary

618 Application of ch 7

This chapter applies to the supply of fuel gas only if the gas supplied is for use by consumers of fuel gas.

619 Who is a *consumer* of fuel gas

- (1) A *consumer* of fuel gas is a person who—
 - (a) consumes, or proposes to consume, fuel gas by way of heating, lighting, motive power or in an industrial process; or
 - (b) uses, or proposes to use, fuel gas for refrigeration or another process.
- (2) Subsection (1)(b) applies even if the use does not result in the gas being consumed.

Part 2 Quality

Division 1 Quality restrictions

620 Prescribed quality

- (1) A regulation may prescribe a quality for fuel gas to be supplied to consumers (the *prescribed quality*).
- (2) The prescribed quality may be for the purity, composition or physical parameters of the gas.

Examples of physical parameters—
specific gravity and heating value

621 Restrictions on supplying gas not of prescribed quality

- (1) This section applies if a person (the *supplier*) proposes to supply fuel gas to someone else (the *recipient*) if—
 - (a) the gas is not of the prescribed quality; and
 - (b) a gas quality approval for the gas is not in force.⁵⁵⁰
- (2) The supplier must not supply the fuel gas to the recipient, unless—
 - (a) the recipient has agreed in writing to the supply; and
 - (b) the agreement—
 - (i) states that the gas is not of the prescribed quality; and
 - (ii) describes the quality of the gas; and
 - (c) the chief inspector has received the agreement, or a copy of it.

Maximum penalty—500 penalty units.⁵⁵¹

- (3) An agreement that complies with subsection (2)(a) to (c) is a ***gas quality agreement***.

Division 2 Gas quality approvals

622 Chief inspector's power to approve quality

- (1) The chief inspector may, on the chief inspector's own initiative or on application, approve the quality of fuel gas (a ***gas quality approval***).
- (2) The application must be—
 - (a) in the approved form; and

⁵⁵⁰ See section 622 (Chief inspector's power to approve quality).

⁵⁵¹ See however section 437 (Limitation of transmission pipeline licence holder's liability).

- (b) lodged at—
 - (i) the office of the department for lodging applications for gas quality approvals, as stated in a gazette notice by the chief inspector; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief inspector; and
 - (c) accompanied by the fee prescribed under a regulation.
- (3) A gas quality approval may be given for all or any of the following—
- (a) supply by a stated person;
 - (b) a stated period;
 - (c) supply to a stated consumer, or group of consumers, from a common source.

623 Criteria for approval

The chief inspector may issue a gas quality approval only if satisfied—

- (a) the quality of the gas is acceptable for supply to the relevant consumers; and
- (b) either—
 - (i) the approval is necessary to ensure sufficiency of gas supply to the relevant consumers; or
 - (ii) that stopping the supply to allow gas of the prescribed quality to be supplied is impractical or may cause a dangerous situation; or
 - (iii) it is impractical to seek the written approval of the relevant consumers to be supplied with gas of that quality.

624 Steps after making decision about approval

- (1) If the chief inspector issues a gas quality approval for supply by a person, the chief inspector must give the person notice of the approval.

- (2) The gas quality approval takes effect when the notice is given.
- (3) On refusal to issue a gas quality approval, the holder must be given an information notice about the decision to refuse.

625 Power to cancel approval

- (1) The chief inspector may decide to immediately cancel a gas quality approval if the chief inspector reasonably believes there may be an unacceptable risk to safety if the approval were to continue in force.
- (2) A cancellation under subsection (1) takes effect when the gas quality approval holder is given an information notice about the decision to cancel.
- (3) The chief inspector may, by complying with subsections (4) and (5), decide to cancel a gas quality approval for any other reason.
- (4) If the chief inspector proposes to cancel a gas quality approval under subsection (3), the chief inspector must give its holder a notice stating—
 - (a) that the chief inspector proposes to cancel the approval; and
 - (b) the reasons for the proposed cancellation; and
 - (c) that the holder may lodge, within a stated reasonable period, written submissions about the proposed cancellation at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the chief inspector; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- (5) The chief inspector must, before making a decision under subsection (3), consider any written submissions lodged by the holder within the stated period.
- (6) A decision to cancel under subsection (3) takes effect when the holder is given an information notice about the decision or, if the notice states a later day of effect, on that later day.

- (2) The fact that a person is supplying a consumer with fuel gas under subsection (1)(b) does not limit an inspector's power to give the person a dangerous situation direction that requires the gas to have the prescribed odour.
- (3) In this section—
- appropriately qualified person* means a person who—
- (a) is independent of the person supplying the fuel gas; and
 - (b) the chief inspector considers—
 - (i) is appropriately qualified; and
 - (ii) has access to information to carry out the risk analysis.

Chapter 8 Petroleum and fuel gas measurement

Part 1 Introduction

Division 1 Application of chapter 8

629 Application of ch 8

This chapter applies for meters used to—

- (a) measure, at custody transfer points, petroleum or fuel gas for supply or transport by pipeline; or
- (b) work out the petroleum royalty; or
- (c) comply with section 801.⁵⁵³

553 Section 801 (Petroleum producer's measurement obligations)

Note—

- 1 Under the Mineral Resources Act, section 318CU,⁵⁵⁴ parts 1 and 2 also apply for the measurement and recording of incidental coal seam gas mined in the area of a coal or oil shale mining lease.
- 2 The *National Measurement Act 1960* (Cwlth) also imposes requirements that apply for measurements schemes under this chapter.

630 Relationship with Trade Measurement Act 1990

A person is taken not to have committed an offence against the *Trade Measurement Act 1990* in relation to a meter or the measurement of petroleum or fuel gas if, in doing the act or making the omission that would have, other than for this section, constituted the offence, the person complies with this chapter.

Division 2 Interpretation

631 What is a *meter*

- (1) A *meter* is a device used to work out, by direct measurement, the energy, mass or volume of petroleum or fuel gas transferred from one place to another.

- (2) A *meter* includes—

- (a) a measuring device and its ancillary equipment; and

Examples of a measuring device—

a positive displacement meter, turbine meter and orifice metering

Example of ancillary equipment—

a flow computer

- (b) a measurement method.

Examples of measurement methods—

- 1 calibrated weigh-bridge differences

554 Mineral Resources Act, section 318CU (Obligation to measure and record coal seam gas mined)

- 2 tank dip readings
 - 3 for disposal of incidental coal seam gas in ventilation air from an underground coal mine, estimation of flow rates and sampling of methane content measurements
- (3) A reference to a *meter* includes a part of the meter.

632 Who is the *controller* of a meter

- (1) The *controller*, of a meter, is the person who owns the meter.
- (2) However, if the owner has arranged with someone else for the other person to operate and maintain the meter for measurement purposes, the other person is the *controller* of the meter while the arrangement is in force.

633 What is the *measurement scheme* for a meter

The *measurement scheme*, for a meter, is the measurement scheme for the meter made under section 637, as revised from time to time under section 639.⁵⁵⁵

634 *Measurement* includes estimation

A reference to the *measurement*, of petroleum or fuel gas, includes an estimation of the energy, mass or volume of the petroleum or fuel gas.

635 What is the *tolerance for error* for a meter

The *tolerance for error*, for a meter, is its tolerance for error in accuracy—

- (a) as prescribed under a regulation; or
- (b) if the tolerance is not prescribed under a regulation, as provided for under—
 - (i) the measurement scheme for the meter; or

⁵⁵⁵ Sections 637 (Content requirements for measurement schemes) and 639 (When measurement scheme must be revised)

- (ii) an Australian standard or similar standard that the measurement scheme for the meter requires the meter to comply with.

Part 2 Measurement schemes

Division 1 Making and revision of measurement scheme

636 Obligations of controller of meter

The controller of a meter must—

- (a) make a measurement scheme for the meter that complies with section 637; and
- (b) implement and maintain the scheme.⁵⁵⁶

Maximum penalty—300 penalty units.

637 Content requirements for measurement schemes

- (1) A measurement scheme for a meter must—
 - (a) identify each meter, or meter family or type, to which the scheme applies; and
 - (b) if the scheme applies to a meter family or type—state approximately how many meters to which the scheme applies are in each family or type; and
 - (c) state an Australian standard or other standard acceptable to the chief executive to which each meter to which the scheme applies must comply; and
 - (d) if the standard does not provide for, or a regulation does not prescribe, when any of the meters must be replaced or tested—state a proposed time or interval for replacement or testing; and

⁵⁵⁶ See also section 801 (Petroleum producer's measurement obligations).

- (e) if the standard does not state, or a regulation does not prescribe, a tolerance for error for any of the meters—state what is the tolerance for error for the meters or meters of their family or type; and
 - (f) provide for regular reviews of the scheme; and
 - (g) state key performance indicators to be used to monitor compliance with the scheme and this chapter; and
 - (h) include any competency requirement made under section 638; and
 - (i) comply with any relevant requirements under the *National Measurement Act 1960* (Cwlth);
 - (j) state the means of compliance with other relevant matters prescribed under a regulation.
 - (k) state other matters prescribed under a regulation.⁵⁵⁷
- (2) The scheme must also address the following to the extent they are appropriate for the meters to which the scheme applies—
- (a) installation and commissioning of meters;
 - (b) meter testing methods and frequency;
 - (c) maintenance processes;
 - (d) correction factor calculation;
 - (e) calibration and traceability of meter test equipment;
 - (f) meter security, including, for example, protection from damage during transport, installation and use and preventing unauthorised alteration of meter readings;
 - (g) processes for estimated meter readings, reasons for estimations and procedures for reconciling actual and estimated readings;
 - (h) procedures on meter failure, incorrect operation or meter bypass;
 - (i) levels of competency for persons employed or engaged to carry out measurement activities under the scheme or other activities relating to the meters;

⁵⁵⁷ See also section 801 (Petroleum producer's measurement obligations).

Examples of other activities—

removing and replacing the meters

- (j) training programs to maintain the skill levels of persons mentioned in paragraph (i);
 - (k) records to be kept, including, for example, records of anomalies, complaints and action taken to rectify or account for them, and the minimum period they will be kept.
- (3) In this section—
- meter family* means a group of meters if—
- (a) all the meters have been made to the same specifications by the same manufacturer; and
 - (b) there are no significant differences in components or materials between meters.

638 Power to fix competency required under measurement scheme

- (1) This section applies if the chief executive believes an activity under a measurement scheme for a meter should be performed only by a person with a particular competency.
- (2) The chief executive may, by notice to the controller of the relevant meter, require the task be performed only by a person with the competency.
- (3) On the giving of the notice, the controller must ensure—
 - (a) the task is performed only by a person with the competency; and
 - (b) the scheme is amended to incorporate the requirement.

639 When measurement scheme must be revised

- (1) The controller of a meter must appropriately revise the measurement scheme for the meter in any of the following circumstances—
 - (a) the controller has installed, or proposes to install, a meter to which the scheme does not apply or that does not comply with the scheme;

- (b) the making or amendment of an Australian standard or other standard that makes it appropriate to revise the scheme;
- (c) the happening of an event relevant to the meter of which the controller is aware, or ought reasonably to have been aware;

Examples of an event—

a development in technical knowledge or hazard assessment

- (d) proposed modifications to the meter or activities under the scheme that make it appropriate to revise the scheme;
- (e) it is proposed to change competencies required for persons carrying out activities under the scheme;
- (f) the controller becomes aware of a significant anomaly in the scheme;
- (g) there is a likelihood of inaccurate measurements under the scheme.

Maximum penalty—500 penalty units.

- (2) In this section—

revise means amend or remake.

Division 2 Compliance with measurement scheme

640 Meter installation or use must comply with scheme

A person must not install or use a meter unless—

- (a) a measurement scheme that applies to the meter has been made; and
- (b) the scheme complies with section 637; and
- (c) the installation or use complies with the scheme.

Maximum penalty—200 penalty units.⁵⁵⁸

⁵⁵⁸ See also section 658 (Authorisation required to install or use pre-payment meters).

641 Measurement must comply with scheme

A person must not measure petroleum or fuel gas through a meter unless—

- (a) the measurement is done in a way that complies with the measurement scheme that applies to the meter; and
- (b) the scheme complies with section 637.

Maximum penalty—500 penalty units.

642 Controller responsible for compliance with measurement scheme

- (1) The controller of a meter must ensure everyone carrying out activities to which the measurement scheme for the meter applies complies with the scheme.

Maximum penalty—500 penalty units.

- (2) Evidence that another person has been convicted of an offence against section 640 or 641 is evidence that the controller committed the offence of failing to ensure the other person complies with the scheme.

Division 3 Regulatory provisions**643 Chief executive's powers if no measurement scheme**

- (1) If the chief executive is satisfied no measurement scheme applies to a meter, the chief executive may, by notice to the controller of the meter prohibit, or impose conditions on, its use or operation.
- (2) The notice must include, or be accompanied by, an information notice about the decision to make the prohibition or impose the conditions.
- (3) The controller must comply with the notice.

Maximum penalty for subsection (3)—500 penalty units.

644 Notice by chief executive of unsatisfactory measurement scheme

- (1) This section applies if the chief executive reasonably believes a measurement scheme for a meter does not comply with section 637 or must be revised under section 639.
- (2) The chief executive must give the controller notice—
 - (a) stating the belief, and the reasons for it; and
 - (b) requiring the controller within a stated reasonable period to—
 - (i) amend the scheme so that it complies with section 637, or, if appropriate, revise the scheme under section 639, and lodge a notice that the scheme has been so amended or revised; or
 - (ii) lodge at the following office submissions as to why the scheme complies with the section 637, or that a revision is not required under section 639—
 - (A) the office of the department for lodging the referral, as stated in a gazette notice by the chief executive;
 - (B) if no office is gazetted under subparagraph (A)—the office of the chief executive.
- (3) The notice may state how the chief executive considers the scheme should be amended.

645 Considering submissions

- (1) This section applies if, within the period stated in a notice given under section 644(2) to a controller, the controller lodges a submission under that section.
- (2) The chief executive must consider the submission.
- (3) If the chief executive decides the scheme does comply or does not need to be revised, the chief executive must give the controller notice of the decision.

646 Revision notice

- (1) This section applies if, after complying with section 645, the chief executive still believes the relevant measurement scheme does not comply with section 637 or must be revised under section 639.
- (2) The chief executive may give the controller notice (the *revision notice*) requiring the controller to amend or remake the measurement scheme so that—
 - (a) it complies with section 637; and
 - (b) if the chief executive believes it must be revised under section 639—the revision is made.
- (3) The revision notice must—
 - (a) state how the chief executive believes the measurement scheme does not comply with section 637 or must be revised under section 639; and
 - (b) state a period within which the controller must comply with the revision notice; and
 - (c) be accompanied by, or include, an information notice about the decisions to give the revision notice and to fix the stated period.
- (4) The controller must comply with the revision notice.

Maximum penalty for subsection (4)—500 penalty units.

Division 4 Significant meter anomalies**647 Application of div 4**

This division applies if the controller of a meter becomes aware of an anomaly relating to the meter that causes, or may cause, the meter to be less accurate than its tolerance for error.

648 Restrictions on use of meter

- (1) The controller must, as soon as practicable, stop any use of the meter.

Maximum penalty—300 penalty units.

- (2) The controller must not use the meter or resume the use of the meter until the anomaly has been corrected.

Maximum penalty—300 penalty units.

649 Obligation to report if required

- (1) If the chief executive has required the controller to lodge a notice of the anomaly, or that type of anomaly, the controller must give the notice as soon as practicable.

Maximum penalty—300 penalty units.

- (2) The notice must be lodged at —
- (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

Division 5 Other reporting requirements

650 Annual measurement report

- (1) The controller of a meter must, on or before 1 September each year, lodge a measurement report about its measurement scheme for the preceding financial year that complies with section 651.

Maximum penalty—100 penalty units.

- (2) The measurement report must be lodged at—
- (a) the office of the department for lodging measurement reports, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) It is not a defence to a proceeding for an offence against subsection (1) that the lodging of the report or information it contains might tend to incriminate the controller.
- (4) However, evidence of, or evidence directly or indirectly derived from, the report or information it contains that might

tend to incriminate the controller is not admissible in evidence against the controller in a civil or criminal proceeding, other than a proceeding for an offence for which the falsity or misleading nature of the answer is relevant.

651 Content requirements for annual measurement reports

A measurement report under section 650 must state all of the following information for the measurement scheme the subject of the report for the financial year to which the report relates—

- (a) the controller's name and contact details;
- (b) the nature and extent of the metering operations;
- (c) whether or not the operations complied with the scheme and this Act;
- (d) an assessment against the key performance indicators for the scheme, as required under section 637(1)(g);⁵⁵⁹
- (e) if the operations have not complied with the scheme—
 - (i) details of each noncompliance; and
 - (ii) details of any remediation of the noncompliance; and
 - (iii) if the noncompliance has not been remedied in whole or part—how it is proposed to remedy the noncompliance.

652 Power to require information about persons acting under measurement scheme

- (1) The chief executive may, by a notice given to a controller of a meter, require the controller to lodge, within a stated period, notice of—
 - (a) the names of, and the competencies held by—
 - (i) each person who carries out activities for which competencies are required under the measurement scheme for the meter; or

⁵⁵⁹ Section 637 (Content requirements for measurement schemes)

- (ii) a stated type of persons who carry out the activities; or
 - (b) the competencies held by a stated person who carries out the activities.
- (2) The stated period must not end before 10 business days after the notice is given.
- (3) The notice must be lodged at—
 - (a) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (4) The controller must comply with the requirement.
Maximum penalty for subsection (4)—100 penalty units.

Part 3 Competency assessments

653 Chief executive's power to require competency assessment

- (1) The chief executive may, by notice, (a *competency assessment notice*) require the controller of a meter to—
 - (a) assess the competency (a *competency assessment*) of a person who carries out—
 - (i) measurement activities under the measurement scheme for the meter; or
 - (ii) other activities relating to the meter; and
Examples of other activities—
removing and replacing meters
 - (b) give the person a report about the outcome of the assessment within a stated reasonable period after the assessment takes place; and
 - (c) lodge a copy of the report at—

- (i) the office of the department for lodging the report, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.
- (2) The competency assessment notice must state—
 - (a) a period (the *assessment period*) during which the assessment must take place; and
 - (b) reasons for the decision to carry out the assessment.
- (3) The assessment period must be at least 20 business days after the competency assessment notice is given.
- (4) The competency assessment notice may also require the assessment to be carried out for the controller by a stated person.
- (5) The controller must comply with the competency assessment notice.

Maximum penalty for subsection (5)—300 penalty units.

654 Costs of competency assessment

A controller to whom a competency assessment notice has been given must bear the costs of the assessment.

655 Requirements following competency assessment

- (1) This section applies if the chief executive considers a report lodged under section 653 about a competency assessment shows that the person assessed is not competent to carry out an activity relating to the relevant meter.
- (2) The chief executive may give the person assessed and the relevant controller notice—
 - (a) requiring them to—
 - (i) take stated remedial action to ensure the person assessed becomes competent to carry out the activity; and

(c) a security device, seal or stamp attached to a meter.

Maximum penalty—500 penalty units.

658 Authorisation required to install or use pre-payment meters

(1) A person must not install or use a pre-payment meter unless—

(a) the chief executive has approved the installation or use; and

(b) any conditions of the approval have been complied with.

Maximum penalty—300 penalty units.

(2) The approval may be given for the installation and use of a stated type of meter at a stated place or stated activity.

Part 5 Meter accuracy disputes

Division 1 Preliminary

659 Application of pt 5

(1) This part applies to disputes between an affected party for a meter and a service provider for the party about whether the meter is accurate, within its tolerance for error.

(2) However, this part does not apply to a dispute if a contract that binds the affected party and the service provider provides for resolution of the dispute.

660 Who is an *affected party* for a meter

(1) A person is an *affected party* for a meter if the person is, or may be, affected by—

(a) the meter possibly registering outside its tolerance for error; or

(b) inaccurate data obtained from the meter.

- (2) Also, the chief executive is an *affected party* for a meter used to work out the petroleum royalty, including, for example, a meter mentioned in section 629(b).⁵⁶⁰

661 Who is the *service provider* for an affected party

The *service provider*, for an affected party, is—

- (a) a person who provides a service relating to the relevant meter; or
- (b) the petroleum tenure holder who must pay petroleum royalty for petroleum measured by the relevant meter.

Division 2 Test by service provider

662 Service provider test

- (1) An affected party for a meter may give the party's service provider notice requiring a test to work out whether the meter is registering within its tolerance for error (a *service provider test*).
- (2) The notice must be accompanied by any reasonable fee required by the service provider.
- (3) The service provider must, as soon as practicable—
 - (a) cause an appropriately qualified person to carry out the test; and
 - (b) obtain a meter test certificate for the test; and
 - (c) give a copy of the certificate to—
 - (i) the affected party; and
 - (ii) if the service provider is not the controller of the meter—the controller.

Maximum penalty—100 penalty units.

⁵⁶⁰ Section 629 (Application of ch 8)

- (4) If the service provider reasonably considers the meter can not conveniently or safely be tested on its site, the provider must immediately advise the affected party.
- (5) The advice must include how long the meter will be away from the site and any additional charges likely to be incurred.
- (6) The affected party may, at any time, withdraw the notice.
- (7) If the withdrawal is made before the test is completed, the service provider must refund the fee for the test, less any cost already incurred in carrying out the test.

663 Content requirements for meter test certificate

A meter test certificate under this part must be a certificate by the person who carried out the test stating each of the following—

- (a) full details of the test;
- (b) the tolerance for error for the relevant meter;
- (c) whether the meter was found to be registering within or outside its tolerance for error;
- (d) if the meter was found to be registering outside its tolerance for error—
 - (i) the percentage of error found; and
 - (ii) whether the error was in favour of the affected party or the service provider; and
 - (iii) any known cause of the error.

664 Refund if test shows inaccuracy in service provider's favour

If a service provider test shows the meter tested is registering outside its tolerance for error and in the provider's favour, the provider must—

- (a) pay for the cost of the test; and
- (b) refund the affected party any amount the party paid the provider for the test.

Maximum penalty—100 penalty units.

665 Restriction on tester adjusting meter

If a person who carries out a service provider test of a meter finds it is not registering or registering outside its tolerance for error, the person must not adjust the meter unless—

- (a) the person has told the affected party that—
 - (i) the meter is not registering or is registering outside its tolerance for error, and, if it is registering outside its tolerance for error, the percentage of error found; and
 - (ii) the person wishes to make the adjustment; and
 - (iii) if the adjustment is made, a validation test of the meter will not be able to be carried out; and
- (b) the affected party has given the person written consent to make the adjustment.

Maximum penalty—200 penalty units.

Division 3 Validation of service provider test**666 Validation test**

- (1) This section applies if a service provider test has been carried out for an affected party.
- (2) The party may, by notice to the service provider, require the provider to arrange for a test by any of the following to work out whether the relevant meter is registering within its tolerance for error (a *validation test*)—
 - (a) an appropriately qualified person appointed by the chief executive;
 - (b) an accredited National Association of Testing Authorities (NATA) testing facility or an equivalent international facility;
 - (c) an international testing facility approved by the chief executive.
- (3) The notice must be accompanied by any reasonable fee required by the appointed person or testing facility for the test.

- (4) As soon as practicable after receiving the notice, the service provider must—
- (a) lodge a copy at—
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) if the service provider is not the controller of the meter—give the controller a copy; and
 - (c) arrange for the appointed person or testing facility to carry out the test.

Maximum penalty—50 penalty units.

- (5) The appointed person or testing facility must, as soon as is reasonably practicable—
- (a) carry out the test; and
 - (b) issue a meter test certificate for the test that complies with section 663; and
 - (c) give the service provider the certificate.
- (6) The service provider must, as soon as practicable after receiving the certificate—
- (a) give a copy of it to the affected party and, if the service provider is not the controller of the meter, the controller; and
 - (b) lodge a copy of it at—
 - (i) the office of the department for lodging the copy, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive.

Maximum penalty for subsection (6)—50 penalty units.

667 Refund if test shows inaccuracy in service provider's favour

If a validation test of a meter shows it is registering outside its tolerance for error in the service provider's favour, the provider must—

- (a) pay for the costs of the service provider and validation tests; and
- (b) refund the affected party any amount the party paid for the relevant service provider test and the validation test.

Maximum penalty—50 penalty units.

668 Service provider's obligations if test shows inaccuracy

- (1) This section applies if—
 - (a) a validation test of a meter shows it is not registering or is registering outside its tolerance for error; and
 - (b) the relevant service provider has, under section 666(5)(c), been given a meter test certificate for the test.
- (2) The service provider must, unless it is uneconomic or impractical to do so, adjust the meter so it registers within its tolerance for error.

Maximum penalty—200 penalty units.

- (3) If it is uneconomic or impractical to make the adjustment, the service provider must—
 - (a) ensure the meter is properly disconnected; and
 - (b) attach firmly to the meter a label clearly bearing the words—'Inaccurate: not to be used'.

Maximum penalty—200 penalty units.

Chapter 9 Safety

Part 1 Safety requirements

669 Making safety requirement

A regulation may make requirements (*safety requirements*)—

- (a) for petroleum or fuel gas safety, including, for example, how to achieve an acceptable level of risk under section 700; or
- (b) about the carrying out of petroleum exploration or production to ensure it does not adversely affect the safety of current or future coal mining under the Mineral Resources Act.

Part 2 Safety management plans

Division 1 Preliminary

670 What is an *operating plant*

- (1) This section applies subject to section 671.
- (2) An *operating plant* is any of the following—
 - (a) a facility used to explore for, produce or process petroleum;
 - (b) a petroleum facility;
 - (c) a pipeline;
 - (d) an LPG storage facility.
- (3) However, if an LPG storage facility has, under the *Dangerous Goods Safety Management Act 2001*, been classified as a major hazard facility, it is an operating plant only to the extent to which that Act does not apply to the facility.

- (4) Subsection (2) applies for a facility or pipeline even if it is—
- (a) an on-site activity as defined under the Coal Mining Safety and Health Act; or
 - (b) an operation as defined under the *Mining and Quarrying Safety and Health Act 1999*.
- (5) An **operating plant** is also a place, or a part of a place, at which a following activity is carried out, but only to the extent of the carrying out of the activity—
- (a) delivery of gas cylinders as prescribed under a regulation;
 - (b) tanker delivery of bulk LPG;
 - (c) cylinder storage at premises prescribed under a regulation;
 - (d) an authorised activity under a petroleum authority if the activity is a geophysical or other survey for data acquisition;
 - (e) another activity prescribed under a regulation and associated with the delivery, storage, transport, treatment or use of petroleum or fuel gas.
- (6) Also, an **operating plant** includes any part of the area of a petroleum tenure or 1923 Act petroleum tenure on which operating plant under subsections (2) to (5) are operated as authorised activities for the tenure.
- (7) A reference to an operating plant includes a reference to each stage of the plant that has commenced.

671 Limitation for facility or pipeline included in coal mining operation

- (1) This section applies for a facility or pipeline that is, or is part of, a coal mining operation or an on-site activity under the Coal Mining Safety and Health Act.
- (2) The facility or pipeline is an operating plant only if—
- (a) it is used to explore for, extract, produce, process, release or transport coal seam gas (the **activity**); and
 - (b) either—

- (i) the activity is carried out under a mineral hydrocarbon mining lease as defined under the Mineral Resources Act, part 19, division 6;⁵⁶¹ or
 - (ii) the person who holds the mining lease, the area of which includes the area on which the activity is carried out, also holds a petroleum lease the area of which includes the area.
- (3) An operating plant mentioned in subsection (2) is a *coal mining-CSG operating plant*.

672 What is a *stage* of an operating plant

A *stage*, of an operating plant, means any of the following for the plant—

- (a) commissioning;
- (b) operation;
- (c) maintenance or modification;
- (d) decommissioning.

673 Who is the *operator* of an operating plant

- (1) This section provides for who is the *operator* of an operating plant.
- (2) For a coal mining-CSG operating plant, the operator is the relevant site senior executive under the Coal Mining Safety and Health Act.
- (3) For an operating plant that, under section 670(5),⁵⁶² is a place, or a part of a place, at which an activity is being carried out, the operator is the person in overall charge of the activity.
- (4) For an operating plant that, under section 670(6), is a part of the area of a petroleum tenure or 1923 Act petroleum tenure, the operator is the holder of the tenure.

561 Mineral Resources Act, part 19, division 6 (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

562 Section 670 (What is an *operating plant*)

- (5) Otherwise, the operator is the person in charge of the plant while it is in operation.

Division 2 Operator's obligations⁵⁶³

674 Requirement to have safety management plan

- (1) The operator of an operating plant must—
- (a) for each stage of the plant, make a safety management plan that complies with section 675; and
 - (b) implement and maintain the plan.

Maximum penalty—1500 penalty units.

- (2) The operator of an operating plant must not begin a stage of the plant unless—
- (a) the operator has made a safety management plan that applies to the stage; and
 - (b) the plan complies with section 675.

Maximum penalty—1000 penalty units.

- (3) A safety management plan may apply to more than 1 operating plant.
- (4) However, the plan must still comply with section 675 in relation to each operating plant to which the plan applies.⁵⁶⁴
- (5) Also, if section 705 applies for an operating plant, the safety management plan must include a principal hazard management plan.

675 Content requirements for safety management plans

- (1) A safety management plan for an operating plant must include details of each of the following to the extent they are appropriate for the plant—

⁵⁶³ See also section 694 (Operator is default site safety manager).

⁵⁶⁴ For coal mining-CSG operating plant, see division 4 (Special provisions for safety management plans for coal mining-CSG operating plant).

- (a) a description of the plant, its location and operations;
- (b) organisational safety policies;
- (c) organisational structure and safety responsibilities;
- (d) each site at the plant for which a site safety manager is required;
- (e) a formal safety assessment consisting of the systematic assessment of risk and a description of the technical and other measures undertaken, or to be undertaken, to control the identified risk;
- (f) if there is proposed, or there is likely to be, interaction with other operating plant or contractors in the same vicinity, or if there are multiple operating plant with different operators on the same petroleum tenure—
 - (i) a description of the proposed or likely interactions, and how they will be managed; and
 - (ii) an identification of the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and
 - (iii) an identification of the safety responsibilities of each operator;
- (g) a skills assessment identifying the minimum skills, knowledge, competencies and experience requirements for each person to carry out specific work;
- (h) a training and supervision program containing the mechanism for imparting the skills, knowledge, competencies and experience identified in paragraph (g) and assessing new skills, monitoring performance and ensuring ongoing retention of skill levels;
- (i) safety standards and standard operating procedures applied, or to be applied, in each stage of the plant;
- (j) control systems including, for example, alarm systems, temperature and pressure control systems, and emergency shutdown systems;
- (k) machinery and equipment relating to, or that may affect, the safety of the plant;
- (l) emergency equipment, preparedness and procedures;

- (m) communication systems including, for example, emergency communication systems;
 - (n) the mechanisms for implementing, monitoring and reviewing and auditing safety policies and safety management plans;
 - (p) key performance indicators to be used to monitor compliance with the plan and this Act;
 - (q) mechanisms for the investigation, recording and review of incidents at the plant;
 - (r) record management including, for example, all relevant approvals, certificates of compliance and other documents required under this Act;
 - (s) to the extent that, because of the *Workplace Health and Safety Act 1995*, section 3(1),⁵⁶⁵ that Act does not apply to a place or installation at the plant, details, including codes and standards adopted, addressing all relevant requirements under that Act that would, other than for that section, apply;
 - (t) if the operating plant is, under the NOHSC standard, a major hazard facility⁵⁶⁶—each matter not mentioned in paragraphs (b) to (r) that is provided for under chapters 6 to 10 of that standard;
 - (u) another matter prescribed under a regulation.
- (2) However, details, or full details, of a matter mentioned in subsection (1) need not be included in the plan if—
- (a) because of the nature, size or type of the operating plant, it is inappropriate to include the details; and
 - (b) the plan—
 - (i) complies with each relevant safety requirement or, if there is no relevant safety requirement for the

⁵⁶⁵ *Workplace Health and Safety Act 1995*, section 3 (Application of Act)

⁵⁶⁶ For what is a major hazard facility under the NOHSC standard, see chapter 4, definition *major hazard facility* and chapter 5 (Identification and classification of a major hazard facility), section 5.6.

matter, other accepted industry practices for the matter; and

(ii) states why it is inappropriate to include the details.

(3) A formal safety assessment under subsection (1)(e), must, as far as practicable, state ways to control risks associated with the operating plant to an acceptable level by—

(a) eliminating or minimising hazards at the plant; and

(b) implementing measures to minimise the likelihood, and limit the consequences, of significant incidents at the plant.

(4) In this section—

NOHSC standard means the ‘National Standard for the Control of Major Hazard Facilities [NOHSC:1014 (1996)]’ made under the *National Occupational Health and Safety Commission Act 1985* (Cwlth), section 38.⁵⁶⁷

676 Publication of and access to safety management plan

(1) The operator of an operating plant must—

(a) whenever the plant is operating, keep a copy of the safety management plan for the plant or the part of the plan relevant to the plant, open for inspection—

(i) at the plant; or

(ii) if because of the nature, size or type of the plant it is impracticable to keep it at the plant—at another place where it is reasonable to have it open for inspection; and

(b) display, and keep displayed, in a conspicuous place at the plant where it can be easily read by anyone to whom the plan, or part of the plan, may apply, a notice stating where the copy of the plan is open for inspection; and

(c) ensure each person who has an obligation under the plan is told they have an obligation under the plan within a

⁵⁶⁷ A copy of the standard may be inspected, free of charge, during office hours on business days at the department’s office at 41 George Street, Brisbane.

reasonable period before the plan requires them to comply with the obligation.

Maximum penalty—100 penalty units.

(2) In this section—

open for inspection means open for inspection by anyone to whom the plan, or part of the plan, may apply.⁵⁶⁸

677 Operator responsible for compliance with safety management plan

(1) The operator of an operating plant must ensure everyone who has an obligation under the safety management plan for the plant complies with their obligations under the plan.

Maximum penalty—500 penalty units.

(2) Evidence that another person has been convicted of an offence against section 702 is evidence that the operator committed the offence of failing to ensure the other person complies with their obligations under the plan.

678 When safety management plan must be revised

(1) The operator of an operating plant must revise the safety management plan for the plant if any of the following make the revision appropriate—

- (a) the making or amendment of a safety code, safety requirement or a standard;
- (b) the happening of an event relevant to the plant of which the operator is aware, or ought reasonably to have been aware;

Examples of an event—

a development in technical knowledge or hazard assessment

⁵⁶⁸ See also section 836 (Safety management plans).

For coal mining-CSG operating plant see division 4 (Special provisions for safety management plans for coal mining-CSG operating plant).

- (c) changes or proposed changes to the plant that could result in an increase in the overall risk levels, or a specific risk level, for the plant.

Maximum penalty—1500 penalty units.

- (2) In this section—

revise means amend or remake.⁵⁶⁹

Division 3 Validation of safety management plans

679 Notice by chief inspector

- (1) This section applies if the chief inspector reasonably believes a safety management plan for an operating plant does not comply with section 675 or must be revised under section 678.
- (2) The chief inspector must give the operator of the plant notice—
 - (a) stating the belief, and the reasons for it; and
 - (b) requiring the operator within a stated reasonable period to—
 - (i) amend the plan so that it complies with section 675, or, if appropriate, revise the plan under section 678, and give the chief inspector notice that the plan has been so amended or revised; or
 - (ii) lodge submissions as to why the plan complies with the section at—
 - (A) the office of the department for lodging the submissions, as stated in a gazette notice by the chief inspector; or
 - (B) if no office is gazetted under subparagraph (A)—the office of the chief inspector.

⁵⁶⁹ For coal mining-CSG operating plant see division 4 (Special provisions for safety management plans for coal mining-CSG operating plant).

- (3) The notice may state how the chief inspector considers the plan should be amended.

680 Considering submissions

- (1) This section applies if, within the period stated in a notice given, under section 679(2), to an operator, the operator lodges a submission under that section.
- (2) The chief inspector must consider the submission.
- (3) If the chief inspector decides the plan does comply or does not need to be revised, the chief inspector must give the operator notice of the decision.

681 Revision notice

- (1) This section applies if, after complying with section 680, the chief inspector still believes the relevant safety management plan does not comply with section 675 or must be revised under section 678.
- (2) The chief inspector may give the operator notice (the *revision notice*) requiring the operator to amend or remake the safety management plan so that—
 - (a) it complies with section 675; and
 - (b) if the chief inspector believes it must be revised under section 678—the revision is made.
- (3) The revision notice must—
 - (a) state how the chief inspector believes the safety management plan does not comply with section 675 or must be revised under section 678; and
 - (b) state a period within which the operator must comply with the revision notice; and
 - (c) be accompanied by, or include, an information notice about the decisions to give the revision notice and to fix the stated period.
- (4) The operator must comply with the revision notice.
Maximum penalty for subsection (4)—1500 penalty units.

682 Other inspector's powers not affected

The giving of a notice under this division does not limit or otherwise affect an inspector's powers under this Act.

Division 4 Special provisions for safety management plans for coal mining-CSG operating plant**683 Application of div 4**

This division applies for a coal mining-CSG operating plant if—

- (a) the operator of the operating plant has a safety and health management system for, or that includes, the operating plant; and
- (b) the system complies with—
 - (i) the Coal Mining Safety and Health Act, section 62; and
 - (ii) the content requirements under section 675 for a safety management plan.⁵⁷⁰

684 Integration with safety and health management system

- (1) The operator of the operating plant is taken to have complied with sections 674 and 678.⁵⁷¹
- (2) The safety and health management system is taken to be, or include, the safety management plan for the plant.

⁵⁷⁰ Coal Mining Safety and Health Act, section 62 (Safety and health management system)

Section 675 (Content requirements for safety management plans)

⁵⁷¹ Sections 674 (Requirement to have safety management plan) and 678 (When safety management plan must be revised)

685 Alternative compliance with s 676

The operator of coal mining-CSG operating plant is taken to have complied with section 676⁵⁷² if the operator complies with the Coal Mining Safety and Health Act, section 62(4) and (5).⁵⁷³

686 Restriction on application of div 3

The chief inspector can only give a notice under division 3⁵⁷⁴ for the parts of the safety and health management system directly affecting the operation of the operating plant.

Part 3 Safety positions and report**Division 1 Executive safety manager and safety report****687 Who is the *executive safety manager* of an operating plant**

- (1) This section provides for who is the *executive safety manager* for the safety management plan for an operating plant.
- (2) For a coal mining-CSG operating plant, the executive safety manager is the site senior executive appointed under the Coal Mining Safety and Health Act.
- (2A) For an operating plant mentioned in section 670(6), the executive safety manager is the senior managing officer of the principal tenure holder.
- (3) Otherwise, the executive safety manager is—
 - (a) if the operator is an individual—the operator; or

572 Section 676 (Publication of and access to safety management plan)

573 Coal Mining Safety and Health Act, section 62 (Safety and health management system)

574 Division 3 (Validation of safety management plans)

(b) the senior managing officer of the corporation or organisation in charge of the operating plant.

(4) In this section—

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

senior managing officer, of a corporation, means the person in Australia who is the most senior officer (however called) of the corporation in Australia responsible for managing the corporation.

688 Executive safety manager's general obligations

The executive safety manager of an operating plant must ensure—

- (a) the plant has—
 - (i) standard operating procedures, emergency response procedures and any other information necessary for its safe operation; and
 - (ii) necessary first aid, safety and other like equipment that is appropriate for the likely hazards of the plant; and
- (b) everyone working at the plant is trained to—
 - (i) use equipment relevant to their duties; and
 - (ii) perform their duties and responsibilities under the safety management plan for the plant; and
- (c) all training in relation to the plant is recorded as soon as practicable after it happens; and
- (d) each record of training in relation to the plant—
 - (i) is kept for a period of at least 5 years from when it is made; and
 - (ii) is, during the period, reasonably available at the plant for inspection by an inspector.

Maximum penalty—2000 penalty units.

689 Executive safety manager must give annual safety report

- (1) The executive safety manager for an operating plant must, on or before 1 September each year, lodge a safety report for the plant in relation to the preceding financial year that complies with section 690.

Maximum penalty—500 penalty units.

- (2) The safety report must be lodged at—
- (a) the office of the department for lodging safety reports, as stated in a gazette notice by the chief inspector; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief inspector.
- (3) It is not a defence to a proceeding for an offence against subsection (1) that the lodging of the report or information it contains might tend to incriminate the executive safety manager.
- (4) However, evidence of, or evidence directly or indirectly derived from, the report or information it contains that might tend to incriminate the executive safety manager is not admissible in evidence against anyone, other than in a proceeding for an offence for which the falsity or misleading nature of the answer is relevant.

690 Content requirements for safety reports

- (1) A safety report under section 689 must state all of the following information for the operating plant the subject of the report for the financial year to which the report relates—
- (a) a description of the plant, its location and operations;
 - (b) the names and contact details of each of the following for the plant—
 - (i) its operator;
 - (ii) its executive safety manager;
 - (iii) any site safety manager;
 - (iv) any other person who is competent to discuss the information about the plant in the report;

- (c) the nature and extent of the activities carried out at the plant;
 - (d) significant safety risks at the plant;
 - (e) whether or not the activities and the plant complied with the safety management plan for the plant and the Act;
 - (f) if the activities or the plant have not complied with the plan or the Act—
 - (i) details of each noncompliance; and
 - (ii) details of any remediation of the noncompliance; and
 - (iii) if the noncompliance has not been remedied in whole or part—how it is proposed to remedy the noncompliance;
 - (g) if the operations of the operating plant during all or part of the year may have affected the future safe and efficient mining of coal—
 - (i) the nature of any hazard, or potential hazard, to the future safe and efficient mining of coal or oil shale in the area; and
 - (ii) the way in which the hazard or potential hazard was created; and
 - (iii) the location, stated in the way prescribed under a regulation, of the hazard or potential hazard; and
 - (iv) measures taken to prevent or reduce the hazards or potential hazards or to mitigate their effects;
 - (h) the mechanism for implementing, monitoring and reviewing and auditing safety policies and safety management plans.
- (2) A safety report may relate to—
- (a) 1 or more of the stages for the plant; and
 - (b) more than 1 operating plant owned or operated by the same person.

691 Obligation to give information to coal or oil shale exploration tenement holder

- (1) This section applies if an executive safety manager for an operating plant gives a safety report that contains information mentioned in section 690(1)(g).
- (2) The executive safety manager must, as soon as practicable, give the relevant tenement holder the information in the report mentioned in section 690(1)(f).

Maximum penalty—500 penalty units.

- (3) Chapter 3, part 8,⁵⁷⁵ applies to any information given under this section as if the information were given for the purposes of chapter 3.
- (4) In this section—

relevant tenement holder means the holder of any coal or oil shale exploration tenement the safe and efficient mining of coal or oil shale under which may have been affected by the operation of the operating plant.

Division 2 Site safety manager**692 Site safety manager**

- (1) If the safety management plan for an operating plant requires a site safety manager for a site at the plant, the operator of the plant must appoint an appropriately qualified person as the site safety manager for the site.

Maximum penalty—500 penalty units.

- (2) The chief inspector may give the operator of an operating plant a notice directing the operator to, within a stated reasonable period, appoint 1 or more appropriately qualified persons as a site safety manager for—
 - (a) a stated site at the plant; or
 - (b) a stated activity at a stated site at the plant.

⁵⁷⁵ Chapter 3 (Provisions for coal seam gas), part 8 (Confidentiality of information)

- (3) The operator must comply with the notice.
Maximum penalty—500 penalty units.
- (4) More than 1 person may be appointed as a site safety manager for a site at an operating plant.

693 Site safety manager's obligations

The site safety manager for a site at an operating plant must ensure—

- (a) each person who enters the site is given an appropriate induction that enables the person to comply with section 702;⁵⁷⁶ and
- (b) each person at the site complies with standard operating procedures, emergency response procedures and other measures necessary for the safety of the site and the person; and
- (c) each person working at the site performs their functions safely and follows standard operating procedures for the plant; and
- (d) necessary first aid, safety and other like equipment that is appropriate for the likely hazards of the site is—
 - (i) available for use; and
 - (ii) adequately maintained; and
 - (iii) reasonably available to anyone authorised to be on the site; and
- (e) relevant staff are trained in first aid, emergency and other general safety procedures.

Maximum penalty—1000 penalty units.

⁵⁷⁶ Section 702 (Requirement to comply with safety management plan)

See also section 699 (General obligation to keep risk to acceptable level).

694 Operator is default site safety manager

If no-one has been appointed as the site safety manager for a site at an operating plant, the operator of the plant is the site safety manager for the site.

Part 4 Other safety obligations**Division 1 Obligations relating to plant or equipment for use in operating plant****695 Exclusion of application of division for coal mining-CSG operating plant**

This division does not apply for a coal mining-CSG operating plant.⁵⁷⁷

696 Designers, importers, manufacturers and suppliers

- (1) This section applies if—
 - (a) a person designs, imports, manufactures, modifies or supplies plant or equipment for use at a particular operating plant; and
 - (b) a safety requirement applies to that type of plant or equipment.
- (2) The person must take reasonable steps to ensure the plant or equipment, as designed, imported, manufactured, modified or supplied, complies with the safety requirement.
Maximum penalty—500 penalty units.
- (3) If the person becomes aware of a defect or hazard associated with the plant or equipment, the person must take reasonable

⁵⁷⁷ For coal mining-CSG operating plant, see the Coal Mining Safety and Health Act, sections 43 to 47.

steps to inform the operator, or proposed operator, of the operating plant of—

- (a) the nature of the defect or hazard and its significance; and
- (b) any controls or modifications the person is aware of that have been developed to eliminate or correct the defect or hazard or to manage the risk.

Maximum penalty—500 penalty units.

697 Installers

- (1) If a safety requirement applies to a type of plant or equipment, a person must not install plant or equipment of that type at an operating plant, or proposed operating plant, unless the installation complies with the safety requirement.

Maximum penalty—300 penalty units.

- (2) If the person is or becomes, aware of a safety risk in relation to the plant or equipment or the installation before the plant or equipment becomes operational, the person—
 - (a) must not operate the plant or equipment; and
 - (b) must give the operator of the operating plant, or proposed operating plant, notice of the safety risk.

Maximum penalty—300 penalty units.

- (3) The person must, before making the plant or equipment operational, certify in the approved form that the installation complies with all relevant safety requirements.

Maximum penalty—300 penalty units.

- (4) In this section—

operator, of a proposed operating plant, means the person who will be the operator of the plant when it becomes operational.

Division 2 Operating plant owners

698 Owner must ensure operator is competent

A person who owns an operating plant must ensure the operator of the plant has the necessary competencies to operate the plant.

Maximum penalty—1000 penalty units.

Division 3 Control and management of risk at operating plant

699 General obligation to keep risk to acceptable level

Each person at an operating plant must, to the extent of the person's duties and responsibilities under this Act or the safety management plan for the plant, take all necessary and reasonable action to ensure no person or property is exposed to more than an acceptable level of risk.

Maximum penalty—100 penalty units.

699A Operator's obligation for adjacent or overlapping coal mining operations

The operator of an operating plant must not carry out an activity at the plant if the activity creates an unacceptable level of risk to a person or plant at an adjacent or overlapping coal mining operations under the Coal Mining Safety and Health Act.

Maximum penalty—1500 penalty units.

700 What is an *acceptable level* of risk

- (1) For a risk to a person or property to be at an *acceptable level*, the activities must be carried out so that the level of risk for the activities—

- (a) is within acceptable safety limits, having regard to each relevant safety requirement; and
 - (b) is as low as is reasonably practicable.
- (2) To decide whether the level of risk is within acceptable safety limits and as low as reasonably practicable, regard must be made to—
- (a) the likelihood of injury or illness to a person, or of property damage, from the risk; and
 - (b) the probable severity of the injury, illness or damage; and
 - (c) whether or not the risk is avoidable by reasonable means.

701 When acceptable level of risk is achieved

An acceptable level of risk to a person or property, from activities at an operating plant is achieved if management and operating systems are in effect that—

- (a) identify, analyse and assess risk; and
- (b) remove, minimise or modify unacceptable or avoidable risks; and
- (c) monitor levels of risk; and
- (d) investigate and analyse the cause of actual, or high potential, incidents at the plant to prevent or reduce their recurrence; and
- (e) review the effectiveness of implemented risk control measures, and take appropriate corrective and preventative action; and
- (f) comply with any relevant regulation.

Division 4 Other obligations of persons at operating plant

702 Requirement to comply with safety management plan

A person at an operating plant must comply with safety procedures and other obligations under the safety management plan for the plant to the extent the procedures and obligations apply to the person.

Maximum penalty—100 penalty units.

703 Requirement to comply with instructions

A person at an operating plant must comply with lawful instructions given for the safety of persons by the operator of, or a supervisor for, the plant.

Maximum penalty—100 penalty units.

704 Wilful or reckless acts or omissions that affect safety

A person at an operating plant must not wilfully or recklessly do an act or make an omission that might adversely affect the safety of anyone at the plant.

Maximum penalty—500 penalty units.

Division 5 Additional obligations of operator of operating plant on coal or oil shale mining lease

Subdivision 1 Principal hazard management plans

705 Application of sdiv 1

This subdivision applies if—

- (a) an operating plant, other than a coal mining-CSG operating plant, is operated—

- (i) in the area of a coal or oil shale mining lease; or
 - (ii) in an area adjacent to the area of a coal or oil shale mining lease; and
- (b) the operation of the plant physically affects, or may physically affect, the safe and efficient mining of coal under the mining lease.

705A Requirement to have principal hazard management plan

- (1) The operator of the operating plant must—
- (a) make a principal hazard management plan for the operating plant that complies with section 705B; and
 - (b) before making the plan—
 - (i) make reasonable attempts to consult with the mining lease holder about the plan; and
 - (ii) subject to subsection (3), have regard to any reasonable provisions for the plan proposed by the mining lease holder; and
 - (c) comply with the plan.

Maximum penalty—1000 penalty units.

- (2) For subsection (1)(b)(i), the operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the mining lease holder a copy of the operator's proposed principal hazard management plan; and
 - (b) the mining lease holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.
- (3) The obligation under subsection (1)(b)(ii) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.

705B Content requirements for principal hazard management plan

For section 705A, the principal hazard management plan for the operating plant must—

- (a) identify the triggers or material changes or effects, or the likely triggers, material changes or effects, that must be monitored, including, for example, specific purpose boundary monitoring, if required; and

Examples of monitoring that may be required—

the monitoring of wellhead pressures, water levels and gas quality changes and coal seam gas piezometric monitoring

- (b) for each matter identified under paragraph (a)—
 - (i) state response procedures and times; and
 - (ii) state the type of action required for the response.

Examples of action that may be required—

- 1 A risk analysis.
- 2 Notice to the mining lease holder of—
 - (a) any drop in hydrostatic pressure that may show a potential hazard to the mining of coal under the mining lease; or
 - (b) any change in water that may show fluid interconnections with any adjacent mining lease.
- (c) identify response and reporting requirements for petroleum wells that are planned to, or may, intersect with mine workings under the mining lease.

705C Resolving disputes about provision proposed by mining lease holder

- (1) This section applies if a dispute exists between the operator and the mining lease holder about the reasonableness of a provision proposed by the mining lease holder for the operator's proposed principal hazard management plan for the operating plant.
- (2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.

- (3) The referral must be—
 - (a) written; and
 - (b) lodged at the following office (the *relevant office*)—
 - (i) the office of the department for lodging the referral, as stated in a gazette notice by the chief inspector;
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief inspector.
- (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge at the relevant office submissions about the dispute.
- (5) The chief inspector's decision binds each party to the dispute.
- (6) The chief inspector must give each party an information notice about the decision.
- (7) The chief inspector's decision is not, of itself, evidence that a principal hazard management plan, or purported principal hazard management plan, for an operating plant complies with section 705B.

Subdivision 2 Additional reporting requirement

705D Reporting of particular accidents and prescribed high potential incidents

- (1) This section applies to the operator of operating plant, other than a coal mining-CSG operating plant, operated in the area of a coal or oil shale mining lease.
- (2) The operator must, on becoming aware that a designated accident or incident has happened immediately report the accident or incident, either orally or by notice.
- (3) If the operator makes an oral report under subsection (2), the operator must confirm the report by notice within 48 hours.
- (4) The report and confirmation must be made to—

- (a) to the senior site executive under the Coal Mining Safety and Health Act for the coal mine the subject of the mining lease; and
 - (b) the chief inspector.
- (5) In this section—

designated accident or incident means an accident or incident as follows that relates to the safety of any coal mining operation—

- (a) an accident that causes—
 - (i) the death of a person; or
 - (ii) a person to be admitted to a hospital as an in-patient for treatment for a bodily injury endangering, or likely to endanger, the person's life; or
 - (iii) a person to suffer an injury causing, or likely to cause, a permanent injury to the person's health;
- (b) a high potential incident of a type prescribed under the Coal Mining Safety and Health Act, section 198(2)(b).⁵⁷⁸

Division 6 Prescribed incident reporting and security of incident sites

706 Requirement to report prescribed incident

- (1) A regulation may prescribe—
 - (a) the types of incidents (***prescribed incidents***) that must be reported to the chief inspector; and
 - (b) the way in which prescribed incidents must be reported.

⁵⁷⁸ Coal Mining Safety and Health Act, section 198 (Notice of accidents, incidents or diseases)

For the prescribed high potential incidents, see the *Coal Mining Safety and Health Regulation 2001*, schedule 1 (Types of high potential incidents for section 198 of the Act).

- (2) If a prescribed incident happens, the following person must immediately, or within a longer period prescribed under a regulation, report the incident to the chief inspector in the prescribed way, unless it has already been so reported by someone else—
 - (a) if the incident happens at an operating plant and any person nominated under the safety management plan for the plant to make the report is present—that person;
 - (b) otherwise—the occupier of the site of the incident.
- (3) A person is taken to have complied with subsection (2) if the Coal Mining Safety and Health Act, section 198(1),⁵⁷⁹ applies to the person and the person has complied with that subsection.

707 Action to restrict access to incident site

- (1) An inspector may take action reasonably necessary to—
 - (a) restrict access to a site the subject of a report under section 706; or
 - (b) protect anything at the site from being tampered with.
- (2) The inspector may authorise the operator of, or site safety manager for, any relevant operating plant to take the action for the inspector.

708 Offence to enter or remain in incident site if access restricted

- (1) This section applies if, under section 707, action has been taken to restrict access to a site the subject of a report under section 706.
- (2) A person must not enter, or remain in, the site unless the person—
 - (a) is an inspector, or is authorised by an inspector; or

⁵⁷⁹ Coal Mining Safety and Health Act, section 198 (Notice of accidents, incidents or diseases)

- (b) enters, or remains in, the site to save life or prevent further injury.

Maximum penalty—500 penalty units.

- (3) A person on the site, other than an inspector, must take all reasonable steps to minimise disturbance of the site.

Maximum penalty—500 penalty units.

Division 7 Obligation to comply with safety requirements and instructions

708A Offence not to comply with safety requirement

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

Maximum penalty—500 penalty units.

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

708B Chief inspector may issue safety alerts and instructions

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

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

- (3) If the chief inspector believes there is a specific safety issue in relation to the petroleum or fuel gas industry, the chief inspector may issue a safety alert or safety instruction to particular persons or the general public.

- (4) A safety alert or safety instruction—

(a) must relate to a specific safety issue in relation to the petroleum or fuel gas industry; and

(b) may be inconsistent with relevant safety requirements.

- (5) If a safety instruction is inconsistent with a relevant safety requirement the safety instruction prevails.

- (6) A safety alert or safety instruction is issued by—

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

Maximum penalty—100 penalty units.

Part 5 Boards of inquiry

Division 1 Establishment and functions

709 Minister may establish board of inquiry

- (1) The Minister may, by gazette notice, establish a board of inquiry for a prescribed incident, other than an accident or incident for which a board of inquiry has been established

under the Coal Mining Safety and Health Act, section 202(1).⁵⁸⁰

- (2) The notice must state matters relevant to the inquiry including, for example, its chairperson and terms of reference.

710 Membership of board

- (1) A board of inquiry must consist of—
 - (a) a magistrate; and
 - (b) no more than 3 independent persons with appropriate expert knowledge relevant to the prescribed incident the subject of the inquiry.
- (2) The Minister must appoint the members of the board of inquiry.
- (3) The magistrate is chairperson of the board.

711 Board's functions

- (1) A board of inquiry must—
 - (a) inquire into the circumstances and probable causes of the prescribed incident the subject of the inquiry; and
 - (b) give the Minister a report of the board's findings as to the cause of the prescribed incident.
- (2) The report must record the recommendations the board considers appropriate and other relevant matters.
- (3) The Minister must publish the recommendations in the way the Minister considers appropriate.

⁵⁸⁰ Coal Mining Safety and Health Act, section 202 (Minister may establish boards of inquiry)

Division 2 Conduct of inquiry

712 Notice of inquiry

The chairperson of a board of inquiry must give at least 14 days notice of the time and place of the inquiry to—

- (a) anyone the chairperson considers may be concerned with the prescribed incident the subject of the inquiry; and
- (b) anyone else the chairperson reasonably believes should be given the opportunity to appear at the inquiry.

713 Inquiry procedures

A board of inquiry, in conducting its inquiry—

- (a) must observe natural justice; and
- (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and appropriate consideration of the issues; and
- (c) is not bound by the rules of evidence; and
- (d) may conduct itself in a way it considers appropriate, including, for example, by holding hearings; and
- (e) must keep a record of its proceedings; and
- (f) must comply with this division and procedural rules prescribed under a regulation.

714 Inquiry to be public unless board directs

- (1) A board or inquiry must hold its inquiry in public.
- (2) However, the board may, of its own initiative or on the application of a person represented at the inquiry—
 - (a) direct the inquiry, or part of the inquiry, be held in private; and
 - (b) give directions about who may be present.
- (3) The board may give a direction under subsection (2) only if it is satisfied it is appropriate to do so.

715 Protection of members, representatives and witnesses

- (1) A member of the board of inquiry has, in performing the member's functions, the same immunity and protection as a Supreme Court judge.
- (2) A lawyer or other person appearing before the board for someone else has the same immunity and protection as a barrister appearing for a party in a proceeding in the Supreme Court.
- (3) A person summoned to attend or appearing before the board as a witness has the same protection as a witness in a proceeding in the Supreme Court.

716 Board's powers for inquiry

- (1) A board of inquiry, in conducting its inquiry, may if it considers it appropriate—
 - (a) act in the absence of a person given notice of the inquiry or some other reasonable notice; and
 - (b) receive evidence on oath or by statutory declaration; and
 - (c) adjourn the inquiry; and
 - (d) disregard a defect, error, omission or insufficiency in a document.
- (2) The chairperson of the board may administer an oath to a person appearing as a witness before the inquiry.

717 Who may participate at inquiry

A person given notice of the inquiry may call, examine, cross-examine and re-examine witnesses, personally or by lawyer or another agent.

718 Witnesses

- (1) The chairperson may, by a notice given to a person (a *witness*), require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.
- (2) A witness must—

- (a) comply with the notice unless the witness has a reasonable excuse; or
- (b) continue to attend as required by the chairperson unless the witness has a reasonable excuse.

Maximum penalty—200 penalty units.

- (3) The chairperson must pay a witness the witness fee prescribed under a regulation or, if no fee is prescribed, the fee the chairperson considers to be reasonable.
- (4) A witness must—
 - (a) take an oath, or make an affirmation, when required to do so by the chairperson; or
 - (b) answer a question or produce a document or thing when required to do so by the chairperson unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) It is a reasonable excuse if answering the question or producing the document or thing might tend to incriminate the witness.

719 Inspection by board of documents or things

- (1) If a document or thing is produced at the inquiry, the board may—
 - (a) inspect the document or thing; and
 - (b) make copies of, photograph, or take extracts from, the document or thing if it is relevant to the inquiry.
- (2) The board may also take possession of the document or thing, and keep it while it is necessary for the inquiry.
- (3) While it keeps a document or thing, the board must allow a person otherwise entitled to possession of the document or thing to inspect, make copies of, photograph, or take extracts from, the document or thing, at a place and time the board considers to be reasonable.

Division 3 Miscellaneous provisions

720 Relationship with proceedings

A board of inquiry may start, continue or finish its proceedings, and a report may be prepared or given, despite a proceeding, unless a court or tribunal of competent jurisdiction orders otherwise.

721 False or misleading statements or document to board

- (1) A person must not state anything to a board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) A person must not give a board of inquiry a document or thing the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

722 Contempt of board

A person must not—

- (a) insult a board of inquiry; or
- (b) deliberately interrupt an inquiry of a board of inquiry; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where a board of inquiry is conducting its inquiry; or
- (d) do anything that would be contempt of court if a board of inquiry were a judge acting judicially.

Maximum penalty—200 penalty units.

723 Change of board membership

A board of inquiry is not affected by a change in its membership.

Part 6 Restrictions on gas work

Division 1 Preliminary

724 Types of gas device

- (1) A **gas device (type A)** is a device, or system of devices, used, or designed or intended for use for a purpose mentioned in subsection (2), the design of which has been certified by any of the following as complying with safety requirements applying to that type of device—
- (a) the chief inspector;
 - (b) a person or body approved by the chief inspector.

Examples of a gas device (type A)—

a gas cooker or hot water service

- (2) For subsection (1), the purposes are—
- (a) for production of heat, light or power; or
 - (b) for refrigeration for which gas is the fuel; or
 - (c) as a propellant.
- (3) A **gas device (type B)** is a device used, or designed or intended for use—
- (a) for a purpose mentioned in subsection (2) that has not been certified as mentioned in subsection (1); or
 - (b) for refrigeration for which gas is the refrigerant; or
 - (c) as a feed stock in a manufacturing process.

Examples of gas devices (type B)—

- a fuel gas system for a motor vehicle or vessel
- a major industrial plant
- a refrigeration system for which gas is the refrigerant

725 What is *gas work*

Gas work is the work of installing, removing, altering, repairing, servicing, testing or certifying the gas system of a gas device.

Division 2 Restrictions**726 Gas devices (type A)**

A person must not carry out gas work in relation to a gas device (type A) unless the person holds a gas work licence that allows the person to carry out that work.

Maximum penalty—500 penalty units.

727 Gas devices (type B)

A person must not carry out gas work in relation to a gas device (type B) unless—

- (a) a gas work authorisation has been issued for the device; and
- (b) the person holds the authorisation, or is acting under the holder's authority; and
- (c) the work complies with the authorisation.

Maximum penalty—500 penalty units.

Division 3 Gas work licences and authorisations

Subdivision 1 Applying for and obtaining gas work licence or authorisation

728 Who may apply

- (1) An individual may apply to the chief inspector for a gas work licence to carry out gas work in relation to a gas device (type A), or a type of gas device (type A).
- (2) An individual or a corporation may apply to the chief inspector for a gas work authorisation for a gas device (type B), or a type of gas device (type B).
- (3) If the applicant is an individual, the application may also seek an endorsement on any gas work licence issued that its holder also carries out work in relation to gases other than fuel gases.

Example—

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

728A Requirements for application

The application must be—

- (a) in the approved form; and
- (b) lodged at the office of the chief inspector; and
- (c) accompanied by the fee prescribed under a regulation.

728B Interim licence or authorisation

- (1) This section applies if the chief inspector considers that the applicant has not adequately demonstrated that the applicant has the competencies and skills to hold the gas work licence or authorisation applied for.
- (2) The chief inspector may grant the applicant an interim gas work licence or authorisation (the *interim authority*).

- (3) The chief inspector may impose conditions on the interim authority.
- (4) The interim authority must be for a stated term of no more than 1 year.
- (5) The chief inspector may extend the term of the interim authority to a term that ends no more than 1 year after the end of its term as stated in the authority.
- (6) However, the chief inspector may extend the term more than once only if satisfied exceptional circumstances justify the further extension.
- (7) If, within the term of the interim authority, the chief inspector considers the applicant has adequately demonstrated that the applicant has the competencies and skills to hold the gas work licence or authorisation applied for, the chief inspector must—
 - (a) grant the application; and
 - (b) cancel the interim authority.
- (8) Otherwise, the chief inspector must refuse the application at the end of the term of the interim authority.

728C Deciding application

- (1) Subject to section 728B, the chief inspector must decide whether to grant or refuse the application.
- (2) However, the chief inspector must refuse the application if the applicant—
 - (a) does not have the qualifications or experience prescribed under a regulation for the type of gas work licence or authorisation applied for; or
 - (b) is not a suitable person to hold the gas work licence or authorisation.
- (3) If the chief inspector decides to grant the application, the chief inspector may—
 - (a) limit the gas work licence or authorisation to a stated type of gas work; or

- (b) impose conditions on the gas work licence or authorisation.
- (5) If the chief inspector makes a decision as follows, the chief inspector must give the applicant an information notice about the decision—
- (a) a decision to refuse the application;
 - (b) a decision to impose a condition on, or to limit, the gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant.
- (6) In deciding whether the applicant is a suitable person to hold the gas work licence or authorisation, the chief inspector may have regard to the following—
- (a) whether the applicant has been convicted of an indictable offence;
 - (b) whether the applicant has been convicted of an offence against the repealed *Gas Act 1965* or this Act;
 - (c) any disability or medical condition the applicant has that could put the applicant or the public at risk;
 - (d) any other issue relevant to the applicant's suitability to hold the gas work licence or authorisation.

728D Term of gas work licence or authorisation

- (1) A gas work licence or authorisation may be issued for a stated term.
- (2) If no term is stated, the gas work licence or authorisation continues in force unless it is cancelled, suspended or surrendered under this Act.

Subdivision 2 General provisions for gas work licences and authorisations

729 Offence not to comply with conditions

The holder of a gas work licence or authorisation must comply with its conditions.

Maximum penalty—250 penalty units.

730 Register of gas work licences and authorisations

The chief inspector must keep a register of details about gas work licences and authorisations.

731 Access to register

- (1) The chief inspector must—
 - (a) keep the register of gas work licences and authorisations open for inspection by the public during office hours on business days at—
 - (i) the department's head office; and
 - (ii) other places the chief inspector considers appropriate; and
 - (b) allow a person to take extracts, free of charge, from the register; and
 - (c) give a person who asks for a copy of all or part of a document or information held in the register the copy on payment of the fee prescribed under a regulation.
- (2) This section does not apply to any part of the register that discloses the residential address of—
 - (a) a gas work licence or authorisation holder who is an individual; or
 - (b) an individual authorised by a gas work authorisation holder to carry out gas work.

Part 7 Miscellaneous provisions

732 **Increase in maximum penalties in circumstances of aggravation**

- (1) This section provides for the maximum penalty for an offence against a provision of part 2, 4 or 6 if the act or omission that constitutes the offence caused a circumstance stated in subsection (3).
- (2) If a circumstance stated in subsection (3) has happened, the maximum penalty stated in the subsection applies instead of the maximum penalty stated in another provision.
- (3) For this section, the circumstances and maximum penalties are—
 - (a) for the death of, or grievous bodily harm to, more than 1 person—5000 penalty units or 3 years imprisonment; or
 - (b) for the death of, or grievous bodily harm to, only 1 person—3000 penalty units or 2 years imprisonment; or
 - (c) for the exposure of anyone to a substance likely to cause death or grievous bodily harm—1000 penalty units or 1 year's imprisonment; or
 - (d) for bodily harm—1000 penalty units or 1 year's imprisonment; or
 - (e) for serious property damage—1000 penalty units or 6 months imprisonment.

732A **Defences for certain offences**

- (1) This section provides defences in a proceeding against a person for a contravention of section 677, 688, 693, 699, 702, 703 or 704 (the *relevant sections*).
- (2) To the extent the contravention is a contravention of a particular safety requirement, it is a defence in the proceedings to prove—
 - (a) if a regulation was made about the way to ensure the safety requirement was to be met—the person followed

- the way prescribed in the regulation to ensure the safety requirement was met; or
- (b) subject to paragraph (a), if a recognised standard was made stating a way or ways to ensure the safety requirement was to be met—
- (i) that the person adopted and followed a stated way to ensure the safety requirement was met; or
- (ii) that the person adopted and followed another way that ensured the safety requirement was met that was equal to or better than the stated way for ensuring the safety requirement was met; or
- (c) if no regulation or recognised standard prescribes or states a way to discharge the person's obligation in relation to the safety requirement—that the person took reasonable precautions and exercised proper diligence to ensure the safety requirement was met.
- (3) Also, it is a defence in a proceeding against a person for an offence against the relevant sections for the person to prove that the contravention was due to causes over which the person had no control.
- (4) The Criminal Code, sections 23(1) and 24 do not apply in relation to a contravention of section 677, 688, 693, 699, 702, 703 or 704.
- (5) In this section—

recognised standard means a recognised standard in force at the time of the contravention.

safety requirement means a requirement—

- (a) a person must comply with to ensure the safety of another person; or
- (b) that a person must not do an act or make an omission that affects the safety of another person.

732B Technical advisory committees

- (1) The chief inspector may establish technical advisory committees to consider matters relating to safety, quality, and measurement.

Examples of matters for subsection (1)—

- proposed regulation exemptions from requirements relating to coal seam gas
 - reviewing safety requirements
 - developing relevant protocols or standards
- (2) The chief inspector may decide the following for a technical advisory committee—
- (a) its functions or terms of reference;
 - (b) its membership;
 - (c) who is to be its chairperson.
- (3) The chief inspector may call for nominations for a technical advisory committee from relevant stakeholder organisations.

733 Certification of gas device or gas fitting

- (1) A person who imports or manufactures a gas device (type A) or (type B) or a gas fitting must certify in the approved form that the appliance or fitting complies with safety requirements applying to that type of appliance or fitting.

Maximum penalty—250 penalty units.

- (2) A person must not offer for sale, install or use a gas device (type A) or (type B) or a gas fitting unless the offer for sale, installation or use has been approved by the chief inspector or a person or body approved by the chief inspector.

Maximum penalty—200 penalty units.

- (3) An approval of a gas device by an approved person or body ceases to have force only if the chief inspector, by notice to the approved person or body cancels or suspends the approval of the gas device.

- (4) In this section—

gas fitting means—

- (a) any component of a gas device (type A) or (type B); or
- (b) a thing used, or designed or intended for use—
 - (i) with a gas device (type A) or (type B); or

- (ii) in the supply, distribution or consumption of fuel gas.

734 Safety obligations of gas system installer

- (1) If a safety requirement applies to a type of gas system, a person must not install a system of that type unless the installation complies with the safety requirement.

Maximum penalty—300 penalty units.

- (2) If the person is, or becomes aware of, a safety risk in relation to the gas system, or its installation, before the gas system becomes operational the person—
 - (a) must not operate the gas system; and
 - (b) must give the owner, operator or proposed operator of the gas system notice of the safety risk.

Maximum penalty—300 penalty units.

- (3) The installer must, before making the gas system operational, certify in the approved form that the installation complies with all relevant safety requirements.

Maximum penalty—300 penalty units.⁵⁸¹

⁵⁸¹ See also part 6, division 2 (Restrictions).

Chapter 10 Investigations and enforcement

Part 1 Investigations

Division 1 Inspectors and authorised officers

735 Appointment

- (1) The chief executive may appoint a public service officer as one of the following—
 - (a) the chief inspector, petroleum and gas;
 - (b) the deputy chief inspector, petroleum and gas;
 - (c) an inspector, petroleum and gas;
 - (d) an authorised officer.
- (2) However, the chief executive may appoint a person under subsection (1) only if satisfied the person is qualified for appointment and has the necessary expertise or experience.

736 Functions

- (1) The functions of an inspector include each of the following—
 - (a) conducting audits, inspections and investigations to monitor and enforce compliance with safety management plans and provisions of this Act relating to safety;
 - (b) investigating incidents;
 - (c) responding to dangerous and emergency situations involving petroleum or fuel gas;
 - (d) collecting information for this Act.
- (2) The functions of an authorised officer include—

- (a) conducting audits, investigations and inspections to monitor and enforce compliance with provisions of this Act other than provisions relating to safety; and
 - (b) collecting information for this Act.
- (3) An inspector or authorised officer is declared to be a public official for the *Police Powers and Responsibilities Act 2000* if the inspector or authorised officer is performing, or is proposing to perform, a function the inspector or authorised officer has under this section.⁵⁸²

737 Appointment conditions and limit on powers

- (1) A person who is an inspector or authorised officer holds office on any conditions stated in—
- (a) the person's instrument of appointment; or
 - (b) a signed notice given to the person.
- (2) The instrument of appointment, a signed notice given to the person or a regulation may limit the person's functions or powers under this Act for the office.
- (3) An inspector is also subject to the directions of the chief inspector in exercising the functions or powers.
- (4) In this section—
- signed notice*** means a notice signed by—
- (a) for the chief inspector—the chief executive; or
 - (b) for another inspector—the chief inspector; or
 - (c) for an authorised officer—the chief executive.

738 Issue of identity card

- (1) The chief executive must issue an identity card to each person who is an inspector or authorised officer.
- (2) The identity card must—

⁵⁸² See the *Police Powers and Responsibilities Act 2000*, chapter 1, part 3, division 2 (Helping public officials).

- (a) contain a recent photo of the person; and
 - (b) contain a copy of the person's signature; and
 - (c) identify the person as an inspector or authorised officer under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

739 Production or display of identity card

- (1) In exercising a power under this Act in relation to another person, an inspector or authorised officer must—
- (a) produce his or her identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the inspector or authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an inspector or authorised officer does not exercise a power in relation to a person only because the inspector or officer has entered a place as mentioned in section 743(1)(b) or (2).

740 When inspector or authorised officer ceases to hold office

- (1) A person who is an inspector or authorised officer ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the person ceases to hold the office;
 - (c) the person's resignation under section 741 takes effect.
- (2) Subsection (1) does not limit the ways the person may cease to hold the office.

(3) In this section—

condition of office means a condition on which the person holds office.

741 Resignation

An inspector or authorised officer may resign by a signed notice given to the chief executive.

742 Return of identity card

A person who ceases to be an inspector or authorised officer must return the person's identity card to the chief executive within 20 business days after ceasing to be an inspector or authorised officer unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Division 2 Powers of entry of inspectors and authorised officers

743 Power of entry—general

(1) An inspector or authorised officer may enter a place if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant; or
- (d) it is a place of business to which this Act relates and the entry is made when the place is open for business or otherwise open for entry; or
- (e) its occupier has been given a compliance direction and the entry is made, at a time or interval stated in the direction, to check compliance with the direction; or
- (f) the inspector or authorised officer may enter the place under sections 744 to 746.

- (2) For the purpose of asking the occupier of a place for consent to enter, an inspector or authorised officer may, without the occupier's consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the inspector or authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (3) In this section—
- place of business* does not include a part of the place where a person resides.

744 Inspector's additional entry power for emergency or incident

- (1) An inspector may enter a place if—
- (a) the inspector reasonably suspects—
 - (i) an emergency exists, or may exist, involving petroleum or fuel gas or suspected petroleum or fuel gas at the place; and
 - (ii) the emergency is causing, or is likely to cause imminent and significant harm to persons or damage to property; or
 - (b) an incident is happening at the place and—
 - (i) the incident is causing harm to persons or property; and
 - (ii) it is reasonably necessary for the inspector to enter the place to investigate and manage the incident to the extent it relates to petroleum or fuel gas.
- (2) Before entering the place, the inspector must do, or make a reasonable attempt to do, each of the following things if the occupier of the place or a public official exercising functions or powers in relation to the place is present at the place—
- (a) identify himself or herself to the occupier or official in the way stated section 739;

- (b) tell the occupier or official the purpose of the entry;
 - (c) seek the consent of the occupier or official to the entry;
 - (d) tell the occupier or official the inspector is permitted under this Act to enter the place without consent or a warrant;
 - (e) give the occupier or official an opportunity to allow the inspector immediate entry to the place without using force.
- (3) However, the inspector need not comply with subsection (2) if—
- (a) for entry under subsection (1)(a)—the inspector reasonably believes that immediate entry to the place is required to avoid imminent and significant harm to persons or property; or
 - (b) for entry under subsection (1)(b)—complying with the subsection may frustrate or otherwise prevent an investigation of the incident the subject of the entry.
- (4) In this section—
- public official* means—
- (a) a police officer; or
 - (b) a person who is appointed or authorised under a law to perform inspection, investigation or other enforcement functions under the law.

745 Inspector's additional entry power for operating plant

An inspector may, at any reasonable time, enter a place where an operating plant is situated, other than a part of the place where a person resides.

746 Authorised officer's additional entry power for petroleum authority

An authorised officer may enter the area of a petroleum authority at any reasonable time, other than a part of the area where a person resides.

Division 3 Procedure for entry

747 Entry with consent

- (1) This section applies if an inspector or authorised officer intends to ask an occupier of a place to consent to the inspector or authorised officer or another inspector or authorised officer entering the place under section 743(1)(a).
- (2) Before asking for the consent, the inspector or authorised officer must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector or authorised officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the inspector or authorised officer consent to enter the place and exercise powers under this division; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the inspector or authorised officer must immediately give a copy to the occupier.
- (6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

748 Application for warrant

- (1) An inspector or authorised officer may apply to a magistrate for a warrant for a place.
- (2) The inspector or authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the inspector or authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

749 Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is at the place or, within the next 7 days, will be at the place.
- (2) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated inspector or authorised officer may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the inspector's or authorised officer's powers under this part; and
 - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
 - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the

- magistrate considers it inappropriate to state the name; and
- (e) the evidence that may be seized under the warrant; and
- (f) the hours of the day or night when the place may be entered; and
- (g) the magistrate's name; and
- (h) the date and time of the warrant's issue; and
- (i) the date, within 14 days after the warrant's issue, the warrant ends.

750 Application by electronic communication and duplicate warrant

- (1) An application under section 749 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector or authorised officer reasonably considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the inspector's or authorised officer's remote location.
- (2) The application—
 - (a) may not be made before the inspector or authorised officer prepares the written application under section 748(2); but
 - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under subsection (1); and
 - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector or authorised officer, for example, by sending a copy by

- fax or email, the magistrate must immediately give a copy of the warrant to the inspector or authorised officer; or
- (b) otherwise—
- (i) the magistrate must tell the inspector or authorised officer the date and time the warrant is issued and the other terms of the warrant; and
- (ii) the inspector or authorised officer must complete a form of warrant, including by writing on it—
- (A) the magistrate's name; and
- (B) the date and time the magistrate issued the warrant; and
- (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (6) The inspector or authorised officer must, at the first reasonable opportunity, send the magistrate—
- (a) the written application complying with section 748(2) and (3); and
- (b) if the inspector or authorised officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
- (a) attach the documents to the original warrant; and
- (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
- (b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

- (9) This section does not limit section 748.
- (10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

751 Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 748, 749 or 750, unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—

warrant includes a duplicate warrant mentioned in section 750(5).

752 Warrants—procedure before entry

- (1) This section applies if an inspector or authorised officer named in a warrant issued under this division for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the inspector or authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person present at the place who is an occupier of the place, in the way stated in section 739;⁵⁸³
 - (b) give the person a copy of the warrant;
 - (c) tell the person the inspector or authorised officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the inspector or authorised officer immediate entry to the place without using force.

583 Section 739 (Production or display of identity card)

- (3) However, the inspector or authorised officer need not comply with subsection (2) if the inspector or authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
- (4) In this section—
warrant includes a duplicate warrant mentioned in section 750(5).

Division 4 Powers after entering a place

753 Application of div 4

- (1) This division applies if an inspector or authorised officer has, under division 2, entered a place.
- (2) However, if, under section 743(2), an inspector or authorised officer enters a place to ask the occupier's consent to enter premises, this division applies to the inspector or authorised officer only if the consent is given or the entry is otherwise authorised.

754 General powers

The inspector or authorised officer may do all or any of the following—

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing;
- (d) copy a document at the place;
- (e) take into or onto the place any person, equipment and materials the inspector or authorised officer reasonably requires for the exercise of a power under this division.

755 Power to require reasonable help

- (1) The inspector or authorised officer may require a person at the place or anywhere else, to give the inspector or authorised officer reasonable help, including, for example, by producing a document or giving information, to—
 - (a) exercise a power under this division; or
 - (b) work out whether this Act is being complied with.
- (2) When making the requirement, the inspector or authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

756 Failure to comply with help requirement

- (1) A person of whom a requirement under section 755 has been made must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—500 penalty units.
- (2) It is a reasonable excuse for an individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.
- (3) However, subsection (2) does not apply if the requirement is to produce a document required to be held or kept by the individual under this Act.

Division 5 Power to obtain information**757 Power to require name and address**

- (1) This section applies if—
 - (a) an inspector or authorised officer finds a person committing an offence against this Act; or
 - (b) an inspector or authorised officer finds a person in circumstances that lead, or has information that leads, the inspector or authorised officer to reasonably believe the person has just committed an offence against this Act.

- (2) The inspector or authorised officer may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector or authorised officer must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.
- (4) The inspector or authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the inspector or authorised officer reasonably suspects the stated name or address to be false.

758 Power to require production of documents

- (1) An inspector or authorised officer may require a person to make available for inspection by an inspector or authorised officer, or produce to the inspector or authorised officer for inspection, at a reasonable time and place nominated by the inspector or authorised officer—
 - (a) a document given to the person under this Act; or
 - (b) a document required to be held, kept or made by the person under this Act.
- (2) The inspector or authorised officer may ask the person to give the inspector or authorised officer a copy of the document within a reasonable period.
- (3) If the inspector or authorised officer asks for and is given a copy of a document mentioned in subsection (1)(b), the inspector or officer may require the person responsible for keeping the document to certify the copy as a true copy of the document.
- (4) If a request under subsection (2) is not complied with within a reasonable period, the inspector or authorised officer may—
 - (a) take the document to copy it; and
 - (b) require the person responsible for keeping the document to certify the copy as a true copy of the document.
- (5) The inspector or authorised officer must return the document to the person as soon as practicable after copying it.

- (6) However, if a requirement is made of a person under subsection (3) or (4), the inspector or authorised officer may keep the document until the person complies with the requirement.

759 Failure to produce document

- (1) A person of whom a requirement under section 758(2) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with a document production requirement if complying with the requirement might tend to incriminate the individual.
- (3) However, subsection (2) does not apply if the requirement is to produce a document required to be held or kept by the person under this Act.

760 Failure to certify copy of document

A person of whom a requirement under section 758(3) or (4) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

761 Power to require information

- (1) This section applies if an inspector or authorised officer reasonably believes—
- (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The inspector or authorised officer may, by a notice given to the person, require the person to give information about the offence to the inspector or authorised officer at a stated reasonable place and at a stated reasonable time.

762 Failure to comply with information requirement

- (1) A person to whom a notice under section 761 has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.

Division 6 Seizure and forfeiture**Subdivision 1 Seizure powers****763 Power to seize things**

- (1) An inspector or authorised officer who, under this part, enters a place may seize a thing at the place if—
- (a) the inspector or authorised officer reasonably believes the thing—
 - (i) is, or may be, evidence of an offence against this Act; or
 - (ii) may be required to investigate an incident; and
 - (b) for an entry made with the occupier's consent—seizure of the thing is consistent with the purpose of entry as told to the occupier.
- (2) An inspector or authorised officer who enters a place under a warrant may seize the evidence for which the warrant was issued.
- (3) An inspector or authorised officer may also seize anything else at a place mentioned in subsection (1) or (2) if the inspector or officer reasonably believes—
- (a) the thing is, or may be, evidence of an offence against this Act; or

- (b) the seizure is necessary to prevent the thing being destroyed, hidden or lost or used to continue or repeat the offence; or
- (c) the thing has just been used in committing an offence against this Act.

764 Seizure of thing subject to security

- (1) An inspector or authorised officer may, under this Act, seize a thing or exercise powers in relation to it despite a lien or other security over it claimed by another person.
- (2) However, the seizure does not affect the person's claim to the lien or other security against a person other than the inspector or authorised officer or a person acting for the inspector or authorised officer.

Subdivision 2 Powers to support seizure

765 Directions to person in control

- (1) To enable a thing to be seized under this part, an inspector or authorised officer may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
 - (a) must be made by notice; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by a notice in the approved form as soon as practicable.

766 Failure to comply with seizure requirement

A person of whom a requirement under section 765 has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

767 General powers for seized things

Having seized a thing under this part, an inspector or authorised officer may do 1 or more of the following—

- (a) move it from the place where it was seized;
- (b) leave it at the place but take reasonable action to restrict access to it;

Examples of restricting access to a thing—

- 1 brand, mark, seal, tag or otherwise identify it to show access to it is restricted
 - 2 sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted
- (c) for equipment—make it inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

768 Offence to unlawfully interfere with seized thing

- (1) A person, other than an inspector or authorised officer, must not do, or attempt to do, any of the following acts in relation to a thing seized under this part unless the person has a reasonable excuse—

- (a) unlawfully interfere with the thing or something done under section 767(b) to restrict access to it;
- (b) enter, or be at, the place where the thing is being kept;
- (c) move the thing from the place where it is being kept.

Maximum penalty—500 penalty units.

- (2) It is a reasonable excuse if the act is authorised by an inspector or authorised officer.

769 Testing seized things

- (1) An inspector may carry out, or arrange to have carried out, scientific or other tests on a thing seized under this Act to investigate an incident.
- (2) The testing may have the effect of destroying the thing if—
 - (a) the thing is a sample of petroleum or fuel gas; or
 - (b) for another thing—
 - (i) its destruction is necessary for the carrying out of the test; and
 - (ii) there is no other reasonable course available to achieve the purpose of the test; and
 - (iii) subsections (3) to (6) are complied with.
- (3) For subsection (2)(b)(iii), the chief inspector must give any owner of the thing of whom the chief inspector is aware a notice of the proposed test before it is carried out.
- (4) The notice must state—
 - (a) a reasonable period for the owner to lodge submissions as to why the thing should be preserved; and
 - (b) where the submissions may be lodged.
- (5) The notice must provide for the submissions to be lodged at—
 - (a) the office of the department for lodging the submissions, as stated in a gazette notice by the chief inspector; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief inspector.
- (6) Before destroying the thing the chief inspector must consider any submissions lodged by the owner during the stated period.

Subdivision 3 Safeguards for seized property**770 Receipt and information notice for seized things**

- (1) As soon as possible after an inspector or authorised officer seizes a thing, the inspector or authorised officer must give the person from whom it was seized—

- (a) a receipt for the thing that generally describes the thing and its condition; and
 - (b) an information notice about the decision to make the seizure.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector or authorised officer must leave the receipt at the place where it was seized, in a reasonably secure way and in a conspicuous position.
- (3) The information notice and receipt may—
- (a) be given in the same document; and
 - (b) relate to more than 1 seized thing.
- (4) This section does not apply to a thing if it is impractical or would be unreasonable to give the receipt, given the thing's nature, condition and value.

771 Access to seized things

- (1) Until a thing seized under this Act is forfeited or returned, an inspector or authorised officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

772 Return of seized things

- (1) If a thing seized under this Act has not been forfeited, an inspector or authorised officer must return the thing to its owner—
- (a) at the end of 6 months; or
 - (b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal from it; or
 - (c) if, within the 6 months, the inspector or authorised officer fixes a later period for its return—at the end of the later period.
- (2) The inspector or authorised officer may fix a later period only if the inspector or authorised officer reasonably believes—

- (a) a proceeding for an offence involving the thing is likely to be commenced; and
 - (b) retention of the thing for the period is necessary for evidence.
- (3) If the inspector or authorised officer fixes a later period, the inspector or authorised officer must, as soon as practicable after making the decision, give the owner of the thing an information notice about the decision to fix the period.
- (4) Despite subsection (1), the inspector or authorised officer must return the thing to the person immediately the inspector or authorised officer stops being satisfied its retention as evidence is necessary.

Subdivision 4 Forfeiture

773 Forfeiture of seized things

- (1) The chief executive or the chief inspector may decide to forfeit a thing seized under this Act if the inspector or authorised officer (the *seizing officer*) who seized the thing—
- (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts; or
 - (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act; or
 - (d) reasonably considers it is dangerous to the extent that, to ensure safety, it must be destroyed; or
 - (e) reasonably considers it has no intrinsic value and use.
- (2) For subsection (1)—
- (a) the period over which the efforts or enquires are made must be at least 5 business days; and
 - (b) the seizing officer is not required to—

- (i) make efforts if it would be unreasonable to make efforts to return the thing to its owner; or
 - (ii) make inquiries if it would be unreasonable to make inquiries to find the owner.
- (3) If the chief executive or chief inspector decides under subsection (1)(c), (d) or (e) to forfeit a thing, the former owner of the thing immediately before the forfeiture must be given an information notice about the decision.
- (4) Subsection (3) does not apply if—
 - (a) the seizing officer can not find the owner, after making reasonable inquiries; or
 - (b) it is impracticable or would be unreasonable to give the information notice.
- (5) Regard must be had to a thing's nature, condition and value—
 - (a) in deciding—
 - (i) whether it is reasonable to make inquiries or efforts; and
 - (ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or
 - (b) in deciding whether it would be unreasonable to give the information notice.

774 Dealing with forfeited things

- (1) On the forfeiture of a thing to the State, it becomes the State's property.⁵⁸⁴
- (2) The chief executive or chief inspector may deal with the thing for the State in any way the chief executive or chief inspector considers appropriate, including, for example by destroying it or giving it away.
- (3) However, the chief executive or chief inspector must not deal with the thing in a way that could prejudice the outcome of an

584 See also section 841 (Additional orders that may be made on conviction).

appeal under this Act of which the chief executive or chief inspector is aware.

Division 7 Notice of damage caused when exercising power

775 Application of div 7

- (1) This division applies if—
 - (a) an inspector or authorised officer damages something when exercising, or purporting to exercise, a power; or
 - (b) a person helping an inspector or authorised officer to exercise, or purporting to exercise, the inspector's or authorised officer's powers damages something.
- (2) However, this division does not apply to damage the inspector or authorised officer reasonably considers is trivial or if the inspector or officer reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.

776 Requirement to give notice

- (1) The inspector or authorised officer must immediately give a notice of the damage to the person who appears to the inspector or officer to be the owner or person in possession or control of the thing.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector or officer must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (3) The inspector or officer may delay complying with subsection (1) or (2) if the inspector or officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the inspector or officer.

- (4) The delay may be only for so long as the inspector or officer continues to have the reasonable suspicion and remains in the vicinity of the place.

777 Content of notice

- (1) A notice of damage under section 776 must state particulars of the damage.
- (2) If the inspector or authorised officer believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the inspector or officer or a person helping the inspector or officer, the notice may state that belief.

Division 8 Miscellaneous provisions

778 Compensation for damage because of exercise of powers

- (1) A person may claim compensation from the State if the person incurs a cost, damage or loss because of the exercise, or purported exercise, of a power under this part by or for an inspector or authorised officer.
- (2) Without limiting subsection (1), compensation may be claimed for a cost, damage or loss incurred because of the compliance with a requirement made of the person under this part.
- (3) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court of competent jurisdiction; or
 - (b) for an offence against this Act to which the claim relates.
- (4) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.

- (6) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

779 Compliance with safety management plan

- (1) An inspector or authorised officer who exercises a power under this part in relation to an operating plant must comply with each relevant safety requirement under the safety management plan for the plant.
- (2) Subsection (1) does not apply if the power is exercised with the chief inspector's written approval.
- (3) A failure to comply with this subsection (1) does not invalidate or otherwise affect the exercise of the power.

Part 2 Directions and enforcement

Division 1 Direction to remedy contravention

780 Power to give compliance direction

- (1) This section applies if an inspector or authorised officer reasonably believes a person—
 - (a) has contravened, or is contravening, this Act; or
 - (b) is involved in an activity that is likely to result in a contravention of this Act.
- (2) The inspector or authorised officer may give the person a written direction (a *compliance direction*) to take steps reasonably necessary to remedy the contravention or avoid the likely contravention.
- (3) The direction may also state—
 - (a) the steps the inspector or authorised officer reasonably believes are necessary to remedy the contravention or avoid the likely contravention; or

- (b) that an inspector or authorised officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the occupier to check compliance with the direction.

781 Requirements for giving compliance direction

- (1) A compliance direction must state each of the following—
 - (a) that the inspector or authorised officer giving it believes the person given the direction—
 - (i) has contravened, or is contravening, this Act; or
 - (ii) is involved in an activity that is likely to result in a contravention of this Act;
 - (b) the provision the inspector or authorised officer believes is being, has been, or is likely to be, contravened;
 - (c) the reasons for the belief;
 - (d) that the person must take steps reasonably necessary to remedy the contravention, or avoid the likely contravention, within a stated reasonable period.
- (2) The direction must include, or be accompanied by, an information notice about the decisions to give the direction and to fix the period.

782 Failure to comply with compliance direction

- (1) A person to whom a compliance direction has been given must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) If the direction states steps the person may take to remedy the contravention, or avoid the likely contravention, the subject of the direction, the person is taken to have complied with the direction if all the steps have been taken.
- (3) Subsection (2) does not prevent the person from complying with the direction in another way.

Division 2 Direction to remedy dangerous situation

783 Power to give dangerous situation direction

- (1) This section applies if an inspector reasonably believes—
 - (a) a dangerous situation exists; and
 - (b) a person is in a position to take steps to prevent, remove or minimise the risk.
- (2) The inspector may give the person a written direction (a *dangerous situation direction*) to take steps reasonably necessary to prevent, remove or minimise the risk within a stated reasonable period.
- (3) The direction may also state—
 - (a) the steps the inspector reasonably believes are necessary to prevent, remove or minimise the risk; or
 - (b) that an inspector or an authorised officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the occupier to check compliance with the direction.

784 Requirements for giving dangerous situation direction

- (1) A dangerous situation direction must state—
 - (a) that the inspector giving the direction believes—
 - (i) a stated dangerous situation exists; and
 - (ii) the person given the direction is in a position to take steps to prevent, remove or minimise the risk; and
 - (b) the reasons for the belief; and
 - (c) that the person must take steps reasonably necessary to prevent, remove or minimise the risk within a stated reasonable period.
- (2) The direction must include, or be accompanied by, an information notice about the decisions to give the direction and to fix the period.

- (3) The direction may be given orally if—
 - (a) for any reason it is not practicable to give the direction in writing; and
 - (b) the inspector warns the person it is an offence not to comply with the direction.
- (4) If a dangerous situation direction is given orally, the inspector who gave it must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

785 Failure to comply with dangerous situation direction

A person to whom a dangerous situation direction has been given must comply with the direction.

Maximum penalty—1000 penalty units.

Division 3 Enforcement of directions

786 Re-inspection or re-attendance to check compliance

- (1) If a compliance or dangerous situation direction has been given, an inspector or authorised officer may, if the inspector or officer considers it reasonably necessary, carry out a re-inspection or re-attendance to check compliance with the direction.
- (2) The re-inspection or re-attendance must be carried out at a reasonable time.

787 Action to ensure compliance

If a person to whom a compliance or dangerous situation direction has been given does not comply with the direction, an inspector or authorised officer may take necessary and reasonable action to ensure the direction is complied with.

788 Recovery of enforcement costs

- (1) The State may recover from the responsible person as a debt any reasonable costs incurred in—

- (a) carrying out a re-attendance under section 786; or
 - (b) taking action under section 787.
- (2) In this section—

responsible person means the person to whom the relevant direction was given.

Division 4 Noncompliance procedure for all authorities under Act

Subdivision 1 Introduction

789 Operation of div 4

- (1) This division provides a process for noncompliance action against the holder of any authority under this Act mentioned in section 18.⁵⁸⁵
- (2) The *relevant official* for taking the action is—
 - (a) for a petroleum authority—the Minister; or
 - (b) for a gas work licence or authorisation—the chief inspector.
- (3) The power to take noncompliance action under this division does not limit a power as follows (the *other power*)—
 - (a) the power under chapter 5, part 1 to require new or additional security;
 - (b) a power under another provision of this Act to amend the authority;
 - (c) the power to give a dangerous situation or compliance direction.
- (4) The other power does not limit the power to take noncompliance action.
- (5) Noncompliance action may be taken at the same time as the other power is exercised.

⁵⁸⁵ Section 18 (Types of authority under Act)

Subdivision 2 Noncompliance action

790 Types of noncompliance action that may be taken

- (1) The noncompliance action the relevant official may take under this division is all or any of the following—
 - (a) amending the authority by doing all or any of the following—
 - (i) reducing the term of the authority;
 - (ii) for a petroleum authority—reducing its area;
Example of a possible reduction—

An authority to prospect holder has not, in contravention of section 78,⁵⁸⁶ carried out work required under the work program for the authority. Noncompliance action may include amending the authority to reduce its area to reflect the work not carried out.
 - (iii) amending a condition of the authority;
 - (iv) imposing a new condition;
 - (b) requiring the authority holder to relinquish a stated part of the area of the authority on or before a stated time;
 - (c) cancelling the authority, immediately or on a stated day;
 - (d) if the authority is a gas work licence or authorisation—suspending it for a period, either under subdivision 3 or by a notice under subdivision 4;
 - (e) if the authority is a petroleum tenure—
 - (i) withdrawing, from a stated day,⁵⁸⁷ the approval of its work program or development plan; and
 - (ii) directing its holder to, on or before that day, lodge the following program or plan at the relevant office so that the Minister may decide whether to approve the program or plan—

586 Section 78 (Compliance with exploration activities in work program)

587 See section 796 (Notice of proposed noncompliance action other than immediate suspension).

- (A) for an authority to prospect—a proposed later work program that complies with the later work program requirements;
 - (B) for a petroleum lease—a proposed later development plan that complies with the later development plan requirements;
- (f) requiring the authority holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.
- (2) However, a requirement under subsection (1)(f) may be made only if the holder has agreed to the requirement being made instead of the taking other noncompliance action under subsection (1).
- (3) A condition or amendment under subsection (1) may restrict the authorised activities for the authority.
- (4) If, under subsection (1)(c), the authority is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the authority until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the authority.
- (6) The power under subsection (1) to amend a gas work licence or authorisation may be exercised even if it is suspended.
- (7) In this section—
relevant office means—
 - (a) the office of the department for lodging proposed later work programs or proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

791 When noncompliance action may be taken

- (1) Noncompliance action may be taken if—
 - (a) an event mentioned in subsection (2) or (3) has happened; and

- (b) the procedure under subdivision 3 or 4 for taking the action has been followed; and
 - (c) the petroleum authority for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—
- (a) obtained the authority because of a materially false or misleading representation or declaration, made orally or in writing; or
 - (b) has failed to comply with this Act, a direction given under this Act or the authority; or
 - (c) did not pay an amount under this Act by the day it became owing; or
 - (d) has used any land in the area of the authority for an activity that—
 - (i) is not an authorised activity for the authority or that, under the *Geothermal Exploration Act 2004*, section 7⁵⁸⁸ or the Mineral Resources Act, section 3A,⁵⁸⁹ can not be carried out on the land; and
 - (ii) the holder can not otherwise lawfully carry out; or
 - (e) has used the authority for a purpose other than for a purpose for which it was granted; or
 - (f) has carried out, or purported to carry out, work under the authority for which the authority was not granted.
- (3) Also, if the authority is a petroleum authority, it is an event for subsection (1) if the holder is not, or has ceased to be, an eligible person.

792 Provision for divided petroleum tenures

- (1) If, under chapter 2, a petroleum tenure (the *original tenure*) is divided into other petroleum tenures (the *new tenures*), any

588 *Geothermal Exploration Act 2004*, section 7 (Relationship with Petroleum legislation)

589 Mineral Resources Act, section 3A (Relationship with petroleum legislation)

noncompliance action started, or that could have been taken, against the original tenure holder may be continued or started against any holder of any of the new tenures.

- (2) However, the procedure under subdivision 4 for taking the noncompliance action must be followed.

Subdivision 3 Procedure for immediate suspension of gas work licence or authorisation

793 Application of sdiv 3

This subdivision applies only if the authority is a gas work licence or authorisation.

794 Immediate suspension

- (1) The chief inspector may, by a notice (a *suspension notice*) to the holder, immediately suspend the authority if the chief inspector reasonably believes—
 - (a) a ground exists to suspend or cancel the authority; and
 - (b) it is imperative to immediately suspend the authority to control or prevent a danger to the public.
- (2) The suspension notice must—
 - (a) state each of the following—
 - (i) that the authority is suspended immediately;
 - (ii) the grounds for the suspension;
 - (iii) the facts and circumstances forming the basis for the grounds;
 - (iv) the suspension period;
 - (v) that the holder may lodge submissions, to show why the suspension should end, at—
 - (A) the office of the department for lodging the submissions, as stated in a gazette notice by the chief inspector; or

- (B) if no office is gazetted under subsubparagraph (A)—the office of the chief inspector; and
- (b) include, or be accompanied by, a notice about the decisions to give the notice and to fix the suspension period.
- (3) The suspension period must not be more than 40 business days.
- (4) The suspension has effect immediately after the holder is given the suspension notice.
- (5) The authority is ineffective during the suspension period.

Subdivision 4 Procedure for other noncompliance action

795 Application of sdiv 4

This section applies if the relevant official proposes to take noncompliance action, other than immediate suspension under section 794.

796 Notice of proposed noncompliance action other than immediate suspension

- (1) The relevant official must give the authority holder a notice stating each of the following—
 - (a) that the relevant official proposes to take noncompliance action against the holder;
 - (b) the types of noncompliance action that may be taken against the holder and the type likely to be taken;
 - (c) the grounds for taking noncompliance action against the holder;
 - (d) the facts and circumstances that are the basis for the grounds;

- (e) that the holder may, within a stated period, lodge submissions about the proposal to take noncompliance action at—
 - (i) the office of the department for lodging the submissions, as stated in a gazette notice by the relevant official; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the relevant official.
- (2) The notice may state any of the following—
 - (a) if the noncompliance action is likely to include amending the authority—the likely amendment;
 - (b) if the authority is a petroleum authority—the amount of any likely reduction of the area of the authority;
 - (c) if the proposed noncompliance action is to suspend the authority—the likely suspension period.
- (3) A suspension period may be fixed by reference to a stated event.
- (4) The stated period must be at least 20 business days after the holder is given the notice.

797 Considering submissions

- (1) The relevant official must consider any submissions lodged by the holder, during the period stated in the notice given under section 796.
- (2) If the relevant official decides not to take noncompliance action the relevant official must promptly give the holder a notice of the decision.

798 Decision on proposed noncompliance action

- (1) If, after complying with section 797, the relevant official still believes a ground exists to take noncompliance action, the official may decide to take noncompliance action in relation to the authority that relates to a ground stated in the notice given under section 796.

- (2) The relevant official must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold, or continue to hold, the authority.
- (3) In considering whether the holder is a suitable person to hold, or to continue to hold, the authority the relevant official must consider any criteria that apply in deciding whether to grant an authority of the same type.

799 Notice and taking effect of decision

- (1) If the relevant official makes a decision under section 798, the person must after making the decision give an information notice about the decision to—
 - (a) the holder; and
 - (b) for a petroleum authority—any other person who holds an interest in the authority recorded in the petroleum register.
- (2) Generally, the decision takes effect on the later of the following—
 - (a) the day the holder is given the information notice;
 - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel or suspend the authority, the decision does not take effect until the end of the appeal period for the decision.⁵⁹⁰

799A Consequence of failure to comply with relinquishment requirement

- (1) This section applies if—
 - (a) noncompliance action taken is a requirement, under section 790(1)(b),⁵⁹¹ of a petroleum authority holder; and
 - (b) the requirement is not complied with.

⁵⁹⁰ See section 824 (Period to appeal).

See also section 826 (Stay of operation of decision).

⁵⁹¹ Section 790 (Types of noncompliance action that may be taken)

- (2) The holder must be given a notice requiring the holder to comply with the requirement under section 790(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the authority is cancelled.
- (4) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (3).

Chapter 11 General offences

Part 1 Restrictions relating to petroleum activities

800 Restriction on petroleum tenure activities

- (1) A person must not carry out a petroleum tenure activity in relation to land unless—
 - (a) the activity is carried out under this Act or the 1923 Act and under the authority of a petroleum tenure or a 1923 Act petroleum tenure; or
 - (b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist.Maximum penalty—2000 penalty units.
- (2) However, subsection (1) does not apply if—
 - (a) the activity is the exploration for coal seam gas under a coal or oil shale mining tenement; or
 - (b) the land is also in the area of a coal or oil shale mining lease and the activity is coal seam gas mining;⁵⁹² or

592 See the Mineral Resources Act, section 318CN (Use that may be made under mining lease of incidental coal seam gas).

- (c) the activity is an activity mentioned in section 32(2) or 109(2) carried out under a coal or oil shale mining lease.⁵⁹³
- (3) In this section—
- petroleum tenure activity*** means to—
- (a) explore for or produce petroleum; or
 - (b) test, develop or use a natural underground reservoir for petroleum storage; or
 - (c) carry out an activity necessary for, or incidental to, an activity mentioned in paragraph (a) or (b).

801 Petroleum producer's measurement obligations

- (1) A petroleum producer must ensure—
- (a) each product mentioned in subsection (2) is measured by a meter, in accordance with the relevant measurement scheme for the meter;⁵⁹⁴ and
 - (b) the meter complies with any requirements prescribed under a regulation; and
 - (c) the measurement is made at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

- (2) For subsection (1)(a), the products are each of the following—
- (a) petroleum the producer produces;
 - (b) any of the petroleum produced that is used to produce the petroleum produced;
 - (c) any of the petroleum produced that is flared or vented by or for the producer;

⁵⁹³ Section 32 (Exploration and testing) or 109 (Exploration, production and storage activities)

See however the *Gas Supply Act 2003*, section 257A (Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction).

⁵⁹⁴ For what is a meter, see section 631 (What is a *meter*). For measurement schemes, see chapter 8, part 2 (Measurement schemes).

- (d) any of the petroleum produced that the producer, or someone else for the producer, injects into a natural underground reservoir in the State;
 - (e) any of the petroleum produced the property in which passes from the producer;
 - (f) for a petroleum tenure holder—associated water for the tenure;
 - (g) any of the petroleum produced that passes through another stage in its production or processing that the Minister gives a notice to the producer is a stage at which the petroleum must be measured.
- (3) For applying subsections (1) and (2)(f), water is taken to be petroleum.
- (4) If there is any inconsistency between the measurement scheme and a regulation made under subsection (1), the regulation prevails to the extent of the inconsistency.

802 Restriction on pipeline construction or operation

- (1) A person must not construct or operate a pipeline, other than a distribution pipeline, unless—
- (a) the construction or operation is—
 - (i) carried out under this Act or the 1923 Act and under the authority of a petroleum tenure or a 1923 Act petroleum tenure; or
 - (ii) necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
 - (b) the pipeline is completely within a parcel of land, or contiguous parcels of land, owned by the person; or
 - (c) the operation of the pipeline consists of—
 - (i) the transportation, within the area of a coal or oil shale mining lease, of coal seam gas mined in the

area of the mining lease, under the Mineral Resources Act, section 318CM;⁵⁹⁵ or

- (ii) the transportation, within the area of a mining lease, of a gasification or retorting product produced under the lease.⁵⁹⁶

Maximum penalty—2000 penalty units.

- (2) In this section—

produced includes extracted, mined or released.

803 Restriction on petroleum facility construction or operation

A person must not construct or operate a petroleum facility unless the construction or operation is—

- (a) carried out under this Act and under the authority of a petroleum authority; or
- (b) necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist.⁵⁹⁷

Maximum penalty—2000 penalty units.

804 Duty to avoid interference in carrying out authorised activities

A person who carries out an authorised activity for a petroleum authority must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

⁵⁹⁵ Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

⁵⁹⁶ See however the *Gas Supply Act 2003*, section 257A (Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction).

⁵⁹⁷ See however section 876 (Conversion on 2004 Act start day) and the *Gas Supply Act 2003*, section 257A (Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction).

Part 2 Interference with authorised activities

805 Obstruction of petroleum authority holder

- (1) A person must not, without reasonable excuse, obstruct a petroleum authority holder from—
- (a) entering or crossing land to carry out an authorised activity for the petroleum authority if chapter 5, part 2 or 3,⁵⁹⁸ to the extent the part is relevant, has been complied with in relation to the entry; or
 - (b) carrying out an authorised activity for the petroleum authority on the land.

Maximum penalty—500 penalty units.

- (2) If a person has obstructed a petroleum authority holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—
- (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
 - (b) the holder considers the person's conduct is an obstruction.
- (3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder, resist.

806 Interfering with water observation bore

- (1) A person must not interfere with a water observation bore unless the person is the owner of the bore or the owner of the bore consents.⁵⁹⁹

Maximum penalty—1000 penalty units.

⁵⁹⁸ Chapter 5, part 2 (Private land) or 3 (Public land)

⁵⁹⁹ For ownership of water observation bores, see section 542 (Ownership of equipment and improvements).

(2) In this section—

owner, of the bore, means the person who, under section 542, owns the works constructed in connection with the bore.

807 Restriction on building on pipeline land

- (1) This section applies if land is pipeline land for 1 or more pipeline licences.
- (2) A person, other than a holder of any of the licences, must not construct or place a structure on the land unless all the pipeline licence holders consent.

Maximum penalty—500 penalty units.

808 Restriction on changing surface of pipeline land for a pipeline licence

A person must not change the surface of pipeline land for a pipeline licence in a way that changes, or may cause a change to, the depth of burial of a pipeline unless—

- (a) the pipeline licence holder consents; or
- (b) the change is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (c) the change is a change to a public road by or for its public road authority and the authority has complied with section 427⁶⁰⁰ in relation to the change; or
- (d) the person has a reasonable excuse.

Maximum penalty—500 penalty units.

809 Unlawful taking of petroleum or fuel gas prohibited

A person must not unlawfully take petroleum or fuel gas from—

- (a) a pipeline the subject of a pipeline licence; or

600 Section 427 (Requirement to consult if construction affects existing pipeline)

- (b) a petroleum pipeline, as defined under section 110,⁶⁰¹ operated under that section by a petroleum lease holder; or
 - (c) a gas fitting as defined under section 733.⁶⁰²
- Maximum penalty—1500 penalty units.

810 Restriction on building on petroleum facility land

A person must not construct or place a structure on petroleum facility land for a petroleum facility licence unless the petroleum facility licence holder consents.

Maximum penalty—500 penalty units.

Part 3 Other offences

811 Obstruction of inspector or authorised officer

- (1) A person must not, without reasonable excuse, obstruct an inspector or authorised officer exercising a power under this Act.
Maximum penalty—500 penalty units.
- (2) If the inspector or authorised officer considers a person has obstructed the inspector or authorised officer and the inspector or authorised officer decides to proceed with the exercise of the power, the inspector or authorised officer must warn the person that—
 - (a) it is an offence to obstruct the inspector or authorised officer unless the person has a reasonable excuse; and
 - (b) the inspector or authorised officer considers the person's conduct is an obstruction.
- (3) In this section—

601 Section 110 (Petroleum pipeline and water pipeline construction and operation)

602 Section 733 (Certification of gas device or gas fitting)

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder, resist.

812 Pretending to be inspector or authorised officer

A person must not pretend to be an inspector or authorised officer.

Maximum penalty—200 penalty units.

813 False or misleading information

- (1) A person must not make an entry in a document required to be kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

814 Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove that—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

815 Fuel gas suppliers must not use other supplier's containers

- (1) This section applies for a container with a water capacity of more than 25kg that is the property of a fuel gas supplier (the *owner*).
- (2) Another fuel gas supplier must not supply LPG in the container without the owner's permission.
Maximum penalty—100 penalty units.
- (3) This section expires 3 years after it commences.

816 Attempts to commit offences

- (1) A person who attempts to commit an offence against this Act commits an offence.
Maximum penalty for an attempt—half the maximum penalty for the completed offence.
- (2) The Criminal Code, section 4⁶⁰³ applies to subsection (1).

603 The Criminal Code, section 4 (Attempts to commit offences)

Chapter 12 Reviews and appeals

Part 1 Review of decisions

817 Who may apply for review

- (1) A person who has been given, or is entitled to be given, an information notice about a decision under this Act mentioned in schedule 1, table 1 (an *original decision*) may apply for a review of the decision (a *review application*).
- (2) A review application may be made only to—
 - (a) if the original decision to which the application relates was made by the chief executive—the Minister; or
 - (b) if the original decision to which the application relates was made by an inspector—the chief inspector; or
 - (c) otherwise—the chief executive.⁶⁰⁴
- (3) The person to whom the review application may be made is the *reviewer*.

818 Requirements for making application

A review application—

- (a) can only be made within 20 business days after—
 - (i) if the person has been given an information notice about the original decision to which the application relates—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the original decision; and
- (b) must be—
 - (i) in the approved form; and

⁶⁰⁴ For restrictions on who may conduct the review, see section 821(1) (Review procedure).

- (ii) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
- (iii) supported by enough information to enable the decision to be reviewed; and
- (c) must be lodged at—
 - (i) the office of the department for lodging review applications, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office stated in the approved form; or
 - (iii) otherwise—the office of the chief executive.

819 Stay of operation of original decision

- (1) The reviewer may grant a stay of the original decision to secure the effectiveness of the review.
- (2) A stay—
 - (a) may be given on the conditions the reviewer considers appropriate; and
 - (b) operates for the period fixed by the reviewer; and
 - (c) may be amended or cancelled by the reviewer.
- (3) The period of a stay under this section must not extend past the time when the reviewer decides the review.
- (4) The review affects the decision, or carrying out of the decision, only if it is stayed.

820 Review decision

- (1) The reviewer must, within 20 business days after the review application is made (the *required period*)—
 - (a) review the original decision; and
 - (b) make a decision (the *review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or

- (iii) substitute another decision for the original decision.
- (2) If the reviewer does not make the review decision within the required period, the reviewer is taken to have made that decision and to have decided to confirm the original decision.
- (3) If the review decision confirms the original decision, for the purpose of an appeal, the original decision is taken to be the review decision.
- (4) If the review decision amends the original decision, for the purpose of an appeal, the original decision as amended is taken to be the review decision.

821 Review procedure

- (1) Despite any other provision of this Act or the *Acts Interpretation Act 1954*, section 27A,⁶⁰⁵ the reviewer's powers to review the original can not be delegated to—
 - (a) a person who made the original decision under a delegation; or
 - (b) if this Act required the decision to be made by a person with particular qualifications or competencies—a person without at least the same or equivalent qualifications or competencies.
- (2) The reviewer may, in making the review decision, seek and take into account advice or information from anyone, including, for example, a review panel established by the reviewer.

822 Notice of review decision

- (1) The reviewer must, within 5 business days after making a review decision, give the applicant notice (a *review notice*) of the decision.
- (2) If the review decision is not the decision sought by the applicant, the review notice must also include, or be accompanied by, an information notice about the decision.

605 *Acts Interpretation Act 1954*, section 27A (Delegation of functions or powers)

- (3) If the reviewer does not give the review notice within the 5 business days, the reviewer is taken to have made a review decision confirming the original decision.

Part 2 Appeals

823 Who may appeal

- (1) A person whose interests are affected by a review decision may appeal against the decision to—
 - (a) if the original decision to which the review decision relates was made under chapter 9—the industrial court; or
 - (c) otherwise—the District Court.
- (2) The court or tribunal to where the person may appeal is the *appeal body*.
- (3) A person whose interests are affected by a decision identified in schedule 1, table 2, may appeal against the decision to the court or tribunal (also the *appeal body*) that the schedule states for the decision.
- (4) For this section, a person who has been given, or is entitled to be given, an information notice about a decision is taken to be a person whose interests are affected by the decision.

824 Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) for an appeal from a review decision—
 - (i) if the person has been given a review notice about the review decision to which the appeal relates—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the review decision; or
 - (b) for an appeal from another decision—

- (i) if the person has been given an information notice about the decision—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the appeal body may, at any time within the 20 business days, extend the period for making an appeal.

825 Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the appeal body.
- (2) A copy of the notice must be lodged at—
 - (a) the office of the department for lodging notices of appeal, as stated in a gazette notice by the chief executive; or
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) An appeal to the District Court or industrial court may be made to the District Court or industrial court nearest the place where the applicant resides or carries on business.
- (4) Subsection (3) does not limit the court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999* or the *Industrial Relations Act 1999*.

826 Stay of operation of decision

- (1) The appeal body may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be given on the conditions the appeal body considers appropriate; and
 - (b) operates for the period fixed by the appeal body; and
 - (c) may be amended or cancelled by the appeal body.
- (3) The period of a stay under this section must not extend past the time when the appeal body decides the appeal.

- (4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

827 Hearing procedures

- (1) In deciding an appeal, the appeal body—
- (a) has the same powers as the original decider; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing, unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
- (a) in accordance with the rules for the appeal body; or
 - (b) in the absence of relevant rules, as directed by the appeal body.
- (4) A power under an Act to make rules for the appeal body includes power to make rules for appeals under this part.

828 Appeal body's powers on appeal

- (1) Subject to section 829, in deciding an appeal, the appeal body may—
- (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the original decider with the directions the appeal body considers appropriate.
- (2) If the appeal body substitutes another decision, the substituted decision is, for this Act, other than this chapter, taken to be the decision of the original decider.

829 Restriction on tribunal's powers for decision not to grant petroleum lease

- (1) This section applies if the tribunal is deciding an appeal against a decision under section 120⁶⁰⁶ not to grant a petroleum lease.
- (2) The tribunal can not exercise a power mentioned in section 828(1)(b) or (c) in relation to the decision on the ground that the preference decision for the application for the lease was to give any coal or oil shale development preference, in whole or part.

830 Appeals from appeal body's decision

- (1) An appeal to the Court of Appeal from a decision of the District Court under this part may be made only on a question of law.
- (2) An appeal to the District Court from a decision of the industrial court under this part may be made only on a question of law.⁶⁰⁷

Chapter 13 Evidence and legal proceedings

Part 1 Evidentiary provisions

831 Application of pt 1

This part applies to a proceeding under or in relation to this Act.

⁶⁰⁶ Section 120 (Right to grant if requirements for grant met)

⁶⁰⁷ For appeals from the tribunal, see the *Land and Resources Tribunal Act 1999*, section 67 (Appeal only on question of law). For the industrial court, see the *Industrial Relations Act 1999*, section 342 (Appeal from commission, magistrate or registrar).

832 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of an inspector or authorised officer;
- (b) the power of an official to do anything under this Act.

833 Signatures

A signature purporting to be the signature of an official is evidence of the signature it purports to be.

834 Other evidentiary aids

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document, of any of the following types, is a document given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) an authority under this Act;⁶⁰⁸
 - (iv) the petroleum register;
 - (v) the register the chief inspector keeps under section 730;⁶⁰⁹
 - (vi) a safety management plan for an operating plant;
 - (vii) a report;
 - (viii) another record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);

608 For the authorities under this Act, see section 18 (Types of authority under Act).

609 Section 730 (Register of gas work licences and authorisations)

- (d) on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (e) on a stated day, or during a stated period, an authority under this Act—
 - (i) was, or was not, in force; or
 - (ii) was, or was not, subject to a stated condition; or
 - (iii) was, or was not, cancelled or suspended;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;
- (g) a stated address for the holder of an authority under this Act is the last address of the holder known to any official.

835 Proof of requirement for land

A certificate by the Minister that stated land taken under section 456(2)⁶¹⁰ was required by the State or another stated person for a purpose mentioned in section 456(2) is evidence that the taking was for that purpose.

836 Safety management plans

If it is relevant to establish what was the safety management plan for an operating plant at a particular time, the copy of the plan that, under section 676(1)(a),⁶¹¹ was kept at the plant at that time is taken to be the original of the plan.

610 Section 456 (State's power to take land)

611 Section 676 (Publication of and access to safety management plan)

Part 2 Offence proceedings

837 Offences under Act are summary

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against a provision of chapter 9, part 2, 4 or 6⁶¹²—
 - (a) must be brought before an industrial magistrate; and
 - (b) can be started only by complaint of the chief inspector or someone else authorised by the Minister.
- (3) The *Industrial Relations Act 1999* applies to a proceeding mentioned in subsection (2).⁶¹³
- (4) A proceeding for an offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

838 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

839 Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against this Act described as involving—
 - (a) false or misleading information; or
 - (b) a false or misleading document or statement.

612 Chapter 9, parts 2 (Safety management plans), 4 (Other safety obligations) or 6 (Restrictions on gas work)

613 For appeals from the industrial magistrate's decision, see the *Industrial Relations Act 1999*, section 341 (Appeal from commission, magistrate or registrar).

- (2) It is enough for the complaint starting the proceeding to state the document, information or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.
- (3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

840 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person’s state of mind about particular conduct.
- (2) It is enough to show—
 - (a) the conduct was engaged in by a representative of the person within the scope of the representative’s actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative’s actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
 - (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.

- (4) In this section—

engaging in conduct includes failing to engage in conduct.

representative means—

- (a) for a corporation—an agent, employee or executive officer of the corporation; or
- (b) for an individual—an agent or employee of the individual.

state of mind, of a person, includes the person’s—

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose.

841 Additional orders that may be made on conviction

- (1) If a court convicts a person for an offence against this Act, it may—
 - (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
 - (b) make any order to enforce the forfeiture it considers appropriate; and
 - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.⁶¹⁴
- (2) Forfeiture of a thing may be ordered—
 - (a) whether or not it has been seized under this Act; and
 - (b) if it has been seized under this Act, whether or not it has been returned to its owner.

Chapter 14 Miscellaneous provisions

Part 1 Applications

842 Substantial compliance with application requirements may be accepted

If—

- (a) a person has made, or purported to make, an application under this Act; and

614 See also section 580 (Power of authorised person to ensure compliance).

- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the decision-maker is satisfied the application substantially complies with the requirements;

the person who must decide the application may decide to allow it to proceed and be decided as if it did comply with the requirements.

843 Additional information may be required about application

- (1) If a person (the *decider*) is deciding, or is required to decide, an application under this Act, the decider may, by notice, require the applicant to give the decider within a stated reasonable period—
 - (a) additional information about, or a document relevant to, the application; or
 - (b) a statutory declaration verifying any information included in the application or any additional information required under paragraph (a).
- (2) For subsection (1)(a), if the application is for a petroleum authority, a required document may include a survey or re-survey of the area of the proposed authority, carried out by a cadastral surveyor under the *Surveyors Act 2003*.
- (3) If the applicant does not give the decider the additional information or declaration by the stated day, the decider may refuse the application.
- (4) If—
 - (a) another provision of this Act provides that the application must be granted in particular circumstances or if particular requirements have been complied with; and
 - (b) the additional information or declaration required to be given relates to whether any of the circumstances exist or whether the requirements have been complied with;

to remove any doubt, it is declared that subsection (3) applies despite the other provision.

- (5) The applicant must pay any costs incurred in complying with the notice.

844 Amending applications

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
 - (a) the application has not been decided; and
 - (b) the official who may or must decide the application has agreed to the making of the amendment; and
 - (c) if the proposed amendment is to change the applicant—each applicant, and proposed applicant, has agreed to the change.
- (2) However, if the application is a tender for a petroleum tenure—
 - (a) a proposed work program or development plan included in the tender can not be amended after the applicant has become the preferred tenderer for the tender; and
 - (b) the tender can not be otherwise amended after the closing time for the relevant call for tenders.
- (3) If, under subsection (1), the application is amended to change the applicant, for the purpose of deciding the application, the applicant as changed is taken to have been the applicant from the making of the application.

845 Withdrawal of application

- (1) A person who has made an application under this Act may lodge a notice withdrawing the application at any time before the following—
 - (a) generally—before the application is decided;
 - (b) for a petroleum authority—the granting of the authority.
- (2) The notice must be lodged at the office at which this Act requires the application to be lodged.
- (3) The withdrawal takes effect when the notice is lodged.

- (a) the mandatory conditions for that type of authority;
 - (b) the term of the authority;
 - (c) any work program or development plan for the authority.
- (4) Also, the official can not amend the authority if the authority as amended would be inconsistent with a mandatory condition for that type of authority.⁶¹⁷

849 Replacement of instrument for authority

- (1) If the instrument for the authority has been lost, stolen or destroyed, its holder may apply in writing to the official who may issue the instrument for the authority to replace it.
- (2) The application must be lodged at the office at which an application for that type of authority must be lodged.
- (3) If the official is reasonably satisfied the instrument has been lost, stolen or destroyed, the official must replace it.
- (4) If the official decides to refuse to replace the instrument, the official must give the holder an information notice about the decision.

850 Joint and several liability for conditions and for debts to State

If more than 1 person holds the authority each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the authority holder to the State.

851 Notice of authority or licence holder's agents

An official may refuse to deal with a person who claims to be acting as the authority holder's agent, unless the holder has given the official notice of the agency.

⁶¹⁷ See also section 377 (Interests of relevant coal or oil shale mining tenement holder to be considered).

Part 3 **Other miscellaneous provisions**

852 Name and address for service

- (1) A person (the *first person*) may, by a signed notice lodged at the relevant office, nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.
- (2) If this Act requires or permits any official to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person, at the stated address for that person.
- (3) In this section—

relevant office means—

- (a) the office of the department for lodging notices of address for service, as stated in a gazette notice by the chief executive; or
- (b) if no office is gazetted under paragraph (a)—the office of the chief executive.

serve includes give.

853 Additional information about reports and other matters

- (1) This section applies if—
 - (a) a person is required under this Act to lodge a notice or copy of a document, a report or information (the *advice*) with an official; and
 - (b) the person gives the advice.
- (2) The official may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.
- (3) The person must comply with the notice.

Maximum penalty for subsection (3)—500 penalty units.

854 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.⁶¹⁸

855 Application of provisions

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

for that purpose, the applied law and any definition relevant to it apply, with necessary changes.

856 Protection from liability for particular persons

- (1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—
 - (a) an official;
 - (b) a public service officer or employee;
 - (c) a contractor carrying out activities, relating to the administration of this Act, for the department;
 - (d) a person who is required to comply with a direction or requirement given under this Act and who is complying with the direction or requirement.

⁶¹⁸ For who may exercise a right of a petroleum authority holder to enter a place, see also section 563 (Who may carry out authorised activity for petroleum authority holder).

- (2) For subsection (1)(a), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—
civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

857 Delegation by Minister, chief executive or chief inspector

- (1) The Minister may delegate the Minister's powers under this Act to—
 - (a) an appropriately qualified public service officer or employee; or
 - (b) an appropriately qualified contractor carrying out activities, relating to the administration of this Act, for the department.
- (2) The chief executive may delegate the chief executive's powers under this Act to a person mentioned in subsection (1).
- (3) The chief inspector may delegate the chief inspector's powers under this Act to an inspector or, with the Minister's approval, a person mentioned in subsection (1).

858 Approved forms

- (1) The chief executive may approve forms for use under this Act.
- (2) The chief inspector may approve forms for use under chapters 7 to 10.
- (3) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

859 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- (2) A regulation may be made about any of the following—
- (a) the fees payable under this Act, including late payment fees;
 - (b) imposing a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.
- (3) A regulation under this Act may be made in the same instrument as a regulation made under the 1923 Act.

Chapter 15 Repeal and transitional provisions

Part 1 Repeal of Gas (Residual Provisions) Act 1965

860 Repeal

The Gas (Residual Provisions) Act 1965 No. 68 is repealed.⁶¹⁹

Part 2 Transitional provisions for Repeal of Gas (Residual Provisions) Act 1965

861 Definitions for pt 2

In this division—

commencement means the day section 860 commences.

⁶¹⁹ For the limited continued application of the *Gas (Residual Provisions) Act 1965* for a particular purpose, see section 937 (Existing operating plant).

repealed Act means the repealed *Gas (Residual Provisions) Act 1965*.

repealed regulation means the repealed *Gas (Residual Provisions) Regulation 1989*.

862 Meters

- (1) This section applies to a meter operated under the repealed Act immediately before the commencement.
- (2) Chapter 8, part 2,⁶²⁰ does not apply to the meter until the later of following—
 - (a) 6 months after the commencement;
 - (b) if a regulation made within the 6 months prescribes a later day—the later day.
- (3) The later day must not be later than 1 year after the commencement.

863 Applications to test meter correctness

- (1) This section applies if, immediately before the commencement, an application had been made under the repealed regulation, section 57, to have a meter tested and the test had not been carried out.
- (2) Despite their repeal, sections 57 and 58 of that regulation apply for the application, the test and its consequences, instead of chapter 8, part 5.⁶²¹

864 Licences under repealed regulation that become gas work licences

- (1) This section applies if, immediately before the commencement, a person held a licence under the repealed regulation, section 83, and the licence (the *old licence*) was—

620 Chapter 8, part 2 (Measurement schemes)

621 Repealed regulation, sections 57 (Testing for correctness of registration) and 58 (Appointment of fees)
Chapter 8, part 5 (Meter accuracy disputes)

- (a) a gas installer's licence; or
 - (b) a gas serviceman's licence.
- (2) On the commencement, the old licence is taken to be a gas work licence for the same purpose as the old licence.
- (3) Subject to chapter 10, part 2, division 4,⁶²² the term of the gas work licence ends when the term of the old licence would have ended.

865 Licences under repealed regulation that become gas work authorisations

- (1) This section applies if, immediately before the commencement, a person held a licence under the repealed regulation, section 83, and the licence was—
- (a) a gas installer's (advanced) licence; or
 - (b) a gas motor fuel installer's licence; or
 - (c) a gas suppliers inspector's licence.
- (2) On the commencement, the licence is taken to be an authorisation for the same purpose as the licence.
- (3) Subject to chapter 10, part 2, division 4,⁶²³ the term of the authorisation expires 12 months after the commencement.

866 Applications for licence similar to gas work licence or authorisation

- (1) This section applies if, immediately before the commencement, a licence application under the repealed regulation, section 84,⁶²⁴ had not been decided.
- (2) If the application is for a type of licence mentioned in section 864 or 865, it is, on the commencement, taken to be an

622 Chapter 10, part 2, division 4 (Noncompliance procedure for all authorities under Act)

623 Chapter 10, part 2, division 4 (Noncompliance procedure for all authorities under Act)

624 Repealed regulation, section 84 (Application for and grant of licence)

application for a gas work licence or authorisation for the same purpose under this Act.

- (3) Otherwise, the application lapses and the application fee must be returned to the applicant.

867 Accidents

- (1) Despite its repeal, the repealed Act, as in force immediately before its repeal, continues to apply for an accident if—
 - (a) it happened before the commencement; and
 - (b) immediately before its repeal, section 10A of that Act applied to the accident; and
 - (c) a report on the accident had not been completed before the commencement.
- (2) For applying subsection (1), a reference in the repealed Act to—
 - (a) the chief gas examiner is taken to be a reference to the chief inspector under this Act; and
 - (b) a gas examiner is taken to be a reference to any inspector under this Act.

868 Gas examiners

- (1) This section applies to a person who, immediately before the commencement, is, under the repealed Act, section 7—
 - (a) the chief gas examiner; or
 - (b) the deputy chief gas examiner; or
 - (c) a gas examiner.
- (2) On the commencement, the person holds the appointment of—
 - (a) if the person was the chief gas examiner—the chief inspector; or
 - (b) if the person was the deputy chief gas examiner—the deputy chief inspector; or
 - (c) if the person was a gas examiner—an inspector.

869 Gas examiners' requirements under repealed Act, s 8

- (1) This section applies if, immediately before the commencement—
 - (a) a gas examiner had given a person a requirement under the repealed Act, section 8; and
 - (b) the requirement was still in force and had not been complied with.
- (2) The requirement is, on the commencement, taken to be a dangerous situation direction given to the person on the commencement.

870 Gas examiners' powers under repealed Act, s 8(1)(e)

- (1) This section applies if, before the commencement—
 - (a) a gas examiner had seized and removed a substance under the repealed Act, section 8(1)(e); and
 - (b) the substance has not been dealt with under that Act.
- (2) The repealed Act, section 8(1)(e), continues to apply for the substance.
- (3) For subsection (1)(a), an inspector under this Act is taken to be a gas examiner.

871 Corresponding decisions under repealed Act

A decision made under the repealed Act about a matter provided for under this Act that continues to have effect immediately before the commencement is, on the commencement, taken to be a decision made under this Act on the commencement.

Part 3 **Transitional provisions relating to 1923 Act**

Division 1 **Preliminary**

872 **Definitions for pt 3**

In this part—

converted ATP see section 876(a).

converted lease see section 894(a).

converted petroleum authority means—

- (a) a converted ATP; or
- (b) a converted lease; or
- (c) an entry permission that, under section 915, becomes a survey licence; or
- (d) a converted licence under section 916; or
- (e) a refinery permission under the 1923 Act, former section 66, that, under section 919 becomes a petroleum facility licence.

converted petroleum tenure means a converted ATP or converted lease.

CSG-related, for a 1923 Act ATP, means a 1923 Act ATP designated as ATP 337P, ATP 364P, ATP 553P or ATP 564P.

existing tenure see section 908.

grant application see section 908.

relevant 1923 Act ATP, for a converted ATP or a replacement tenure that is an authority to prospect, means the 1923 Act lease that the converted ATP or replacement tenure replaced, or is to replace.

relevant 1923 Act ATP, for a converted lease or a replacement tenure that is a petroleum lease, means the 1923 Act lease that

the converted lease or replacement tenure replaced, or is to replace.

replacement tenure see section 908.

873 What is the *current term* of a converted ATP

- (1) The *current term* of a converted ATP is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the relevant 1923 Act ATP was granted;
 - (b) the day that the last renewal of the relevant 1923 Act ATP before the 2004 Act start day became effective.
- (2) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.
- (3) For subsection (1)(b), a renewal of the relevant 1923 Act ATP is taken to have become effective on the day immediately after the end of its last term before the renewal.

874 What are the *transitional notional sub-blocks* for a converted ATP

- (1) The *transitional notional sub-blocks*, for a converted ATP, are the sub-blocks stated in the instrument for the converted ATP at the start of its current term.
- (2) However, the *transitional notional sub-blocks* do not include any of the sub-blocks stated in the instrument that are completely within the area of a petroleum lease or 1923 Act lease.
- (3) For subsection (1), if the instrument—
 - (a) states that the area of the converted ATP includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely

within the area of another petroleum tenure or a 1923 Act petroleum tenure.

Division 2 Conversion of particular 1923 Act ATPs to an authority to prospect under this Act

Subdivision 1 Conversion provisions

875 Application of div 2

This division applies to any 1923 Act ATP in force immediately before the 2004 Act start day if it is not a 1923 Act ATP as follows or a renewal of a 1923 Act ATP as follows—

- (a) a 1923 Act ATP designated as ATP 212P, ATP 259P, ATP 267P, ATP 269P, ATP 299P, ATP 333P, ATP 336P, ATP 337P, ATP 364P, ATP 375P, ATP 470P, ATP 471P, ATP 526P, ATP 529P, ATP 539P, ATP 543P, ATP 545P, ATP 548P, ATP 549P, ATP 552P, ATP 553P, ATP 554P, ATP 556P, ATP 560P, ATP 564P ATP 701P; or
- (b) a 1923 Act ATP prescribed under a regulation notified before the 2004 Act start day.

876 Conversion on 2004 Act start day

On the 2004 Act start day—

- (a) the 1923 Act ATP ceases to be a 1923 Act ATP and becomes an authority to prospect under this Act (a *converted ATP*); and
- (b) the holder of the 1923 Act ATP is the holder of the converted ATP; and
- (c) the conditions of the 1923 Act ATP about expenditure or work become a later work program for the converted ATP; and
- (d) the period to which the conditions apply is taken to be the plan period for the work program; and

- (e) any condition of the 1923 Act ATP ceases to be a condition of the converted ATP if the condition is the same, or substantially the same, as any relevant environmental condition for the 1923 Act ATP; and
- (f) the converted ATP continues, subject to this Act, for the balance of the 1923 Act ATP's term; and
- (g) the converted ATP is held subject to this Act and the conditions of the 1923 Act ATP, as modified under this division; and
- (h) the area of the 1923 Act ATP becomes the area of the converted ATP.

Subdivision 2 Special provisions for converted ATPs

877 Exclusion from area of land in area of coal mining lease or oil shale mining lease

- (1) This section applies to land if it—
 - (a) is within any transitional notional sub-block of a converted ATP; and
 - (b) was, when the relevant 1923 Act ATP was granted, in the area of a coal or oil shale mining tenement, whether or not the land was in the area of the 1923 Act ATP.
- (2) Despite section 98,⁶²⁵ the land—
 - (a) does not form part of the area of the converted ATP; and
 - (b) is taken to be excluded land for the converted ATP.

878 Relinquishment condition if converted ATP includes a reduction requirement

- (1) This section applies if a converted ATP requires its area to be reduced to a stated number of blocks on or before stated days.

625 Section 98 (Area of authority to prospect)

- (2) Until the first renewal of the converted ATP after the 2004 Act start day—
 - (a) the requirement is the *relinquishment condition* for the converted ATP; and
 - (b) the requirement applies instead of chapter 2, part 1, division 4, subdivision 2.⁶²⁶
- (3) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the converted ATP after the 2004 Act start day, at least 5% of the transitional notional sub-blocks of the converted ATP must have been relinquished for each 12 month period of its current term.
- (4) Also, a relinquishment of a part of the area of the converted ATP that overlaps with the area of a lease under this Act or a 1923 Act lease can not be counted as a relinquishment for the relinquishment condition.

879 Relinquishment condition if authority does not include a reduction requirement

- (1) If the authority does not include a requirement mentioned in section 878(1), the *relinquishment condition* for the authority is the relinquishment condition under section 65,⁶²⁷ with the following changes—
 - (a) the required percentage is 5% instead of 8.33%;
 - (b) the reference in section 66(2) to the authority originally taking effect is a reference to the start of its current term.
- (2) Chapter 2, part 1, division 4, subdivision 2 applies to the authority, subject to the changes under subsection (1).

880 Provision for conflicting conditions

- (1) If a provision of a converted ATP conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—

626 Chapter 2, part 1, division 4, subdivision 2 (Standard relinquishment condition and related provisions)

627 Section 65 (Standard relinquishment condition)

- (a) a provision of this Act;
 - (b) a mandatory condition for authorities to prospect under this Act;
 - (c) a relevant environmental condition for the converted ATP.
- (2) However, section 98(7)⁶²⁸ does not apply for the converted ATP.

881 Additional conditions for renewal application

- (1) This section applies as well as section 81.⁶²⁹
- (2) A converted ATP holder can not apply to renew the converted ATP if section 878⁶³⁰ applies and the relinquishment condition under that section has not been complied with.
- (3) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 1923 Act lease, the application is invalid.

882 Term of renewed converted ATP

Despite section 85(7),⁶³¹ a converted ATP may be renewed for a renewed term that ends no more than 12 years from—

- (a) if the renewal decision is made before the end of the current term for the converted ATP—the end of the current term; or
- (b) if the renewal decision is made after the end of the current term for the converted ATP—the day the decision is made.

628 Section 98 (Area of authority to prospect)

629 Section 81 (Conditions for renewal application)

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

631 Section 85 (Provisions and term of renewed authority)

883 Exclusion of s 98(7) for any renewal

Section 98(7)⁶³² does not apply to a renewal of a converted ATP.

884 Existing renewal applications

- (1) This section applies if—
 - (a) a 1923 Act ATP is in force immediately before the 2004 Act start day; and
 - (b) under section 876,⁶³³ the 1923 Act ATP becomes a converted ATP on the 2004 Act start day; and
 - (c) before the 2004 Act start day an application to renew the 1923 Act ATP had been made under the 1923 Act, but the application had not been granted before that day.
- (2) On the 2004 Act start day, the application is taken to be a renewal application for the converted ATP made under sections 81 and 82.⁶³⁴
- (3) Sections 882 and 883 apply to the renewal.

885 Continued application of 1923 Act, former s 22 to converted ATP for previous acts or omissions

Despite its repeal the 1923 Act, former section 22,⁶³⁵ as it was in force immediately before the 2004 Act start day, continues to apply to a converted ATP for an act done or omission made in relation to the relevant 1923 Act ATP that happened before that day, as if the converted ATP were still a 1923 Act ATP.

632 Section 98 (Area of authority to prospect)

633 Section 876 (Conversion on 2004 Act start day)

634 Sections 81 (Conditions for renewal application) and 82 (Requirements for making application)

635 1923 Act, former section 22 (Cancellation of authority to prospect)

Division 3 **Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given)**

886 **Application of div 3**

This division applies for any 1923 Act ATP application if, immediately before the 2004 Act start day—

- (a) the application had not been granted or rejected; and
- (b) a notice under the Commonwealth Native Title Act, section 29,⁶³⁶ had not been given for the proposed 1923 Act ATP the subject of the application.⁶³⁷

887 **Applications for which notice of intention to grant has been given**

- (1) This section applies if, before the 2004 Act start day, the Minister gave the applicant a notice of intention to grant the applicant a 1923 Act ATP, subject to stated requirements.
- (2) The application is taken to be a tender, under chapter 2, part 1, division 2,⁶³⁸ for a proposed authority to prospect, made in response to a call for tenders for that proposed authority.
- (3) The closing time for the call is taken to have passed.
- (4) The applicant is taken to have been appointed, under section 39,⁶³⁹ as the preferred tenderer for the call.
- (5) The stated requirements are taken to be requirements made under section 40.⁶⁴⁰

636 Commonwealth Native Title Act, section 29 (Notification of parties affected)

637 If a notice under the Commonwealth Native Title Act section 29 has been given, see the 1923 Act, section 151 (Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given).

638 Chapter 2, part 1, division 2 (Obtaining authority to prospect)

639 Section 39 (Process for deciding tenders)

640 Section 40 (Provisions for preferred tenderers)

888 Applications in response to public notice

- (1) This section applies if—
 - (a) a notice of intention to grant mentioned in section 887(1) had not been given before the 2004 Act start day; and
 - (b) the application was made in response to a public notice, published by the Minister or the department, inviting applications for a 1923 Act ATP; and
 - (c) the notice complies, or substantially complies with section 35(2).⁶⁴¹
- (2) The public notice is taken to be a call for tenders for a proposed authority to prospect.
- (3) The call is taken to have been made when the public notice was published.
- (4) The closing time for the call is taken to be the day stated in the public notice by which applications must be submitted.
- (5) The application is taken to be a tender, under chapter 2, part 1, division 2, for the proposed authority, made in response to the call.

889 Other applications made before introduction of Petroleum and Other Legislation Amendment Bill 2004

If the application—

- (a) was made before the day the *Petroleum and Other Legislation Amendment Bill 2004* was introduced into Parliament; and
- (b) is not an application to which section 887 or 888 applies;

it is taken to be a tender, under chapter 2, part 1, division 2 for a proposed authority to prospect, made in response to a call for tenders for the proposed authority.

641 Section 35 (Call for tenders)

890 Lapsing of all other applications

The application lapses on the 2004 Act start day unless it is an application to which section 887, 888 or 889 applies.

Division 4 Transition, by application, from 1923 Act ATP to petroleum lease under this Act

891 Right of 1923 Act ATP holder to apply for petroleum lease

- (1) The holder of a 1923 Act ATP may, after the 2004 Act start day, apply for a petroleum lease under this Act for all or part of the area of the 1923 Act ATP.
- (2) The application may include a request that excluded land for the 1923 Act ATP be declared to be excluded land for the petroleum lease.

892 Provisions for deciding application and grant of petroleum lease

- (1) The following provisions of this Act apply for the application as if a reference in the provisions to an authority to prospect included a reference to the 1923 Act ATP—
 - (a) chapter 2, part 2, division 2, other than sections 120, 121 and 122;
 - (b) chapter 2, part 2, division 4;
 - (c) chapter 2, part 2, division 7, subdivision 1;
 - (d) section 101.⁶⁴²

642 Chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

Sections 120 (Right to grant if requirements for grant met), 121 (Requirements for grant) and 122 (Exception for particular relevant arrangements)

Chapter 2, part 2, division 4 (Development plans)

Chapter 2, part 2, division 7, subdivision 1 (Area of petroleum lease)

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

Note—

Chapter 3 may also apply for the application. See section 297.⁶⁴³

- (2) This section does not limit division 7.⁶⁴⁴

Division 5 Conversion of particular 1923 Act leases to petroleum leases

Subdivision 1 Conversion provisions

893 Application of sdiv 1

This division applies to—

- (a) the 1923 Act leases numbered 194, 195, 198, 209, 220 and 226; and
- (b) another 1923 Act lease prescribed under a regulation notified before the 2004 Act start day.

894 Conversion on 2004 Act start day

On the 2004 Act start day—

- (a) the 1923 Act lease ceases to be a 1923 Act lease and becomes a petroleum lease under this Act (a *converted lease*); and
- (b) the holder of the 1923 Act lease is the holder of the converted lease; and
- (c) the current program for development and production for the 1923 Act lease is taken to be the development plan for the converted lease; and
- (d) any condition of the 1923 Act lease ceases to be a condition of the converted lease if the condition is the

643 Chapter 3 (Provisions for coal seam gas)

Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

644 Division 7 (Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure)

- same, or substantially the same as any relevant environmental condition for the converted lease; and
- (e) the converted lease continues, subject to this Act, for the balance of the 1923 Act lease's term; and
 - (f) the converted lease is held subject to this Act and the conditions of the 1923 Act lease, other than any condition mentioned in paragraph (d); and
 - (g) the area of the 1923 Act lease becomes the area of the converted lease.

Subdivision 2 Special provisions for converted leases

895 Provision for conflicting conditions

- (1) If a provision of the 1923 Act lease conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
 - (a) a provision of this Act;
 - (b) a mandatory condition for petroleum leases under this Act;
 - (c) a relevant environmental condition for the converted lease.
- (2) However, section 168(6)⁶⁴⁵ does not apply to the converted lease or for any renewal of the lease.

896 Sunsetting of particular activities

- (1) This section applies if—
 - (a) an activity for a converted lease is provided for under the provisions of the lease; and
 - (b) the activity was, under the relevant 1923 Act lease, being carried out before the 2004 Act start day; and

645 Section 168 (Area of petroleum lease)

- (c) the carrying out of the activity—
 - (i) is, other than for this section, not an Act authorised activity for the converted lease; or
 - (ii) is inconsistent with an Act authorised activity.
- (2) Despite the provisions of the lease or the definition of authorised activity in schedule 2, the activity is taken to be an authorised activity for the converted lease.
- (3) Subsection (2) ceases to apply on the fifth anniversary of the 2004 Act start day.
- (4) Subsection (2) applies whether or not the activity was being carried out immediately before the 2004 Act start day.
- (5) In this section—

Act authorised activity means an activity that, under a provision of this Act, is an authorised activity for a petroleum lease.

897 Additional obligation of converted lease holder to lodge proposed later development plan

- (1) This section applies, as well as section 159,⁶⁴⁶ to a converted lease holder.
- (2) If any of the area of the converted lease is, on the 2004 Act start day, the subject of an application for a coal exploration tenement or coal mining lease, the holder must lodge a proposed later development plan for the converted lease before 6 months after 2004 Act start day (the *relevant time*).
- (3) If, on the 2004 Act start day, the remaining term of the converted lease is 5 years or more, the holder must lodge a proposed later development plan for the converted lease before the first anniversary of the original grant of the relevant 1923 Act lease that happens after 6 months after the 2004 Act start day (also the *relevant time*).
- (4) The obligation under subsection (2) or (3) is complied with only if the proposed later development plan—

⁶⁴⁶ Section 159 (Obligation to lodge proposed later development plan)

- (a) is lodged at—
 - (i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and
 - (b) complies with the later development plan requirements;⁶⁴⁷ and
 - (c) is accompanied by the relevant fee.
- (5) If, before the relevant time, a decision is made not to approve a proposed later development plan lodged under subsection (2) or (3), the holder may lodge another proposed later development plan before that time.
- (6) If the holder does not lodge any proposed later development plan before the relevant time—
- (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (7) Chapter 2, part 2, division 4, subdivision 5⁶⁴⁸ applies to a proposed later development plan lodged under this section.
- (8) In this section—
- relevant fee**, for the lodgement of the proposed plan, means—
- (a) if the proposed plan is lodged before the relevant time—the fee prescribed under a regulation; or
 - (b) if the proposed plan is lodged after the relevant time and—

647 See chapter 2, part 2, division 4, subdivision 4 (Requirements for proposed later development plans).

For leases mentioned in subsection (2) see also section 384 (Additional criteria).

648 Chapter 2, part 2, division 4, subdivision 5 (Approval of proposed later development plans)

- (i) it is lodged under subsection (5)—nil; or
- (ii) otherwise 20 times the prescribed fee.

898 Consequence of failure to comply with notice to lodge proposed later development plan

- (1) If a converted lease holder does not comply with a requirement under section 897(6)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

899 Existing renewal applications

If—

- (a) under section 894, a former 1923 Act lease becomes a converted lease on the 2004 Act start day; and
- (b) before the 2004 Act start day, an application to renew the lease had been made under the 1923 Act; and
- (c) immediately before the 2004 Act start day the application had not been granted;

on the 2004 Act start day, the application is taken to be a renewal application for the converted lease, made under sections 161 and 162.⁶⁴⁹

900 Exclusion of s 168(8) for any renewal application

Section 168(8)⁶⁵⁰ does not apply to—

- (a) a renewal application to which section 899 applies; or
- (b) any subsequent renewal application for the converted lease the subject of that application.

649 Sections 161 (Conditions for renewal application) and 162 (Requirements for making renewal application)

650 Section 168 (Area of petroleum lease)

901 Lapsing of undecided applications to unite converted leases that relate to a converted lease

If—

- (a) immediately before the 2004 Act start day, an application had been made under the 1923 Act, section 100, to unite 1923 Act leases; and
- (b) on the 2004 Act start day—
 - (i) any of the 1923 Act leases becomes a converted lease; and
 - (ii) the application had not been decided;

the application lapses on the 2004 Act start day.

Division 6 Provisions for particular 1923 Act lease applications and 1923 Act lease renewal applications⁶⁵¹**Subdivision 1 Existing 1923 Act, s 40 applications relating to a CSG related 1923 Act ATP or a converted ATP****902 Application of sdiv 1**

This subdivision applies if—

- (a) before the 2004 Act start day, an application had been made under the 1923 Act, section 40,⁶⁵² by the holder of a 1923 Act ATP for a 1923 Act lease; and
- (b) immediately before the 2004 Act start day, the application had not been decided; and
- (c) either—
 - (i) the 1923 Act ATP is CSG-related; or

651 For other applications, see the 1923 Act, part 10 (Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day).

652 1923 Act, section 40 (Lease to holder of authority to prospect)

- (ii) under section 876,⁶⁵³ the 1923 Act ATP becomes a converted ATP on the 2004 Act start day.

903 Applications for CSG-related 1923 Act ATPs

- (1) If the 1923 Act ATP is CSG-related, the application is taken to be an application under the following division—
- (a) if the relevant coal or oil shale mining tenement is a coal or oil shale exploration tenement—whichever of chapter 3, part 2, division 1 or 2 applies;
 - (b) if the relevant coal or oil shale mining tenement is a coal or oil shale mining tenement—whichever of chapter 3, part 3, division 2 or 3 applies.⁶⁵⁴
- (2) However, no step may be taken in relation to the application until the relevant requirements under the division for making an application have been complied with.⁶⁵⁵
- (3) For section 842,⁶⁵⁶ the application is taken to be an application under this Act.

904 Other applications

- (1) If the 1923 Act ATP is not CSG-related, the application is taken to be an ATP-related application.

⁶⁵³ Section 876 (Conversion on 2004 Act start day)

⁶⁵⁴ Chapter 3, part 2 (Obtaining petroleum lease over land in area of coal or oil shale exploration tenement), division 1 (Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder) or 2 (Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder)

Chapter 3, part 3 (Obtaining petroleum lease over land in area of coal or oil shale mining lease), division 2 (Petroleum lease application other than by or jointly with coal or oil shale mining lease holder) or 3 (Petroleum lease application by or jointly with coal or oil shale mining lease holder)

⁶⁵⁵ See also section 843 (Additional information may be required about application).

⁶⁵⁶ Section 842 (Substantial compliance with application requirements may be accepted)

- (2) Chapter 2, part 2, division 2, applies to the application.⁶⁵⁷

Note—

Chapter 3 may also apply for the application. See section 297.⁶⁵⁸

- (3) For section 842, the application is taken to be an application under this Act.

Subdivision 2 Petroleum leases provided for under particular agreements before or after 2004 Act start day

905 Application of sdiv 2

This subdivision applies if, before or after the 2004 Act start day, an agreement as follows provides for the granting of a proposed petroleum lease under this Act—

- (a) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);⁶⁵⁹
- (b) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.⁶⁶⁰

906 Petroleum lease under this Act may be granted if so provided

- (1) If the agreement provides for the proposed petroleum lease to be granted under this Act, it may be applied for and granted under this Act.
- (2) If the agreement provides for the proposed lease to be renewed under this Act, it may be renewed as a petroleum lease under this Act.

657 Chapter 2, part 2, division 2 (Transition from authority to prospect to petroleum lease)

658 Chapter 3 (Provisions for coal seam gas)

Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

659 Commonwealth Native Title Act, section 31 (Normal negotiation procedure)

660 See section 908 (Right to apply for petroleum tenure).

907 Restriction on term of petroleum lease

The term of the renewed petroleum lease must not be longer than the shorter of the following—

- (a) 30 years;
- (b) the original term of the petroleum lease;
- (c) its last renewed term.

Division 7 Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure**Subdivision 1 Applying for and obtaining replacement tenure****908 Right to apply for petroleum tenure**

- (1) The holder of a 1923 Act ATP (the *existing tenure*) may apply (the *grant application*) for an authority to prospect (the *replacement tenure*) under this Act for all or part of the area of the 1923 Act ATP.
- (2) The holder of a 1923 Act lease (also the *existing tenure*) may apply (also the *grant application*) for a petroleum lease under this Act (also the *replacement tenure*) for all or part of the area of the 1923 Act lease.
- (3) The grant application can not be made before the 2004 Act start day.
- (4) The grant application may include a request that excluded land for the existing tenure be declared to be excluded land for the replacement tenure.

909 Continuing effect of existing tenure for grant application

- (1) This section applies if before the grant application is decided the term of the existing tenure ends.
- (2) Despite the ending of the term, the existing tenure continues in force until the earlier of the following to happen—

- (a) the replacement tenure is granted;
- (b) the application is rejected;
- (c) the application is withdrawn;
- (d) the existing tenure is cancelled under the 1923 Act.

910 Renewal application provisions apply for making and deciding grant application

- (1) Subject to subdivision 2, the following provisions apply to the making and deciding of the grant application and to the replacement tenure—
 - (a) if the existing tenure is a 1923 Act ATP—
 - (i) chapter 2, part 1, division 5, other than section 83; and
 - (ii) sections 99 and 100;
 - (b) if the existing tenure is a 1923 Act lease—
 - (i) chapter 2, part 2, division 6, other than section 163;
 - (ii) sections 169 and 170.⁶⁶¹
- (2) The provisions applied under subsection (1) apply as if—
 - (a) the grant application were an application to renew the type of petroleum tenure that corresponds to the existing tenure; and
 - (b) in chapter 2, part 1, division 5, a reference to—
 - (i) the authority to prospect were a reference to the 1923 Act ATP; and
 - (ii) the authority to prospect holder were a reference to the 1923 Act ATP holder; and

⁶⁶¹ Chapter 2, part 1, division 5 and part 2, division 6 (Renewals)

Sections 83 (Continuing effect of authority for renewal application) and 163 (Continuing effect of lease for renewal application)

Sections 99 and 169 (Minister's power to decide excluded land) and 100 and 170 (Minister may add excluded land)

- (iii) a work program for the authority to prospect were a reference to the work program for the 1923 Act ATP; and
- (iv) the renewed authority to prospect were a reference to the replacement tenure; and
- (c) in chapter 2, part 2, division 6, a reference to—
 - (i) the petroleum lease were a reference to the 1923 Act lease; and
 - (ii) the petroleum lease holder were a reference to the 1923 Act lease holder; and
 - (iii) a development plan for the petroleum lease were a reference to the development plan under the 1923 Act for the 1923 Act lease; and
 - (iv) the renewed petroleum lease were a reference to the replacement tenure; and
- (d) a reference to—
 - (i) the civil penalty were a reference to the civil penalty under the 1923 Act; and
 - (ii) interest were a reference to interest under the 1923 Act.
- (3) Sections 98 and 168 do not apply to the replacement tenure.⁶⁶²

Note—

Chapter 3 may also apply for the grant application. See section 297.⁶⁶³

911 Effect of replacement tenure on existing tenure

- (1) This section applies if the replacement tenure takes effect.
- (2) If the area the subject of the grant application is all the land in the area of the existing tenure, the existing tenure ends.
- (3) If the area the subject of the grant application is only part of the land in the area of the existing tenure—

⁶⁶² Sections 98 (Area of authority to prospect) and 168 (Area of petroleum lease)

⁶⁶³ Chapter 3 (Provisions for coal seam gas)

Section 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

- (a) the part ceases to be in the area of the existing tenure; and
- (b) land that, at any time, is declared to be excluded land for the replacement tenure ceases to be excluded land for the existing tenure.

911A Provision for continuance of 1923 Act make good obligation

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

Subdivision 2 Special provisions for the replacement tenure

912 Restrictions on term and renewed terms

- (1) If the replacement tenure is an authority to prospect the term of any renewal of the tenure must not end more than 12 years from the end of its current term.
- (2) The *current term* of an authority to prospect is the period that starts on the later of the following days and ends when it is first renewed after the 2004 Act start day—
 - (a) the day the relevant 1923 Act ATP was granted;
 - (b) the day that the last renewal of the relevant 1923 Act ATP before the 2004 Act start day became effective.
- (3) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.
- (4) For subsection (2)(b), a renewal of the authority is taken to have become effective on the day immediately after the end of its last term before the renewal.
- (5) If the replacement tenure is a petroleum lease, the term of the tenure ends on the earlier of the following—

- (a) 30 years after the grant of the replacement lease;
- (b) the balance of the term of the relevant 1923 Act lease.

913 Relinquishment condition for replacement authority to prospect

If the replacement tenure is an authority to prospect (the *replacement authority*), section 878 or 879⁶⁶⁴ applies as if a reference in the section to a converted ATP were a reference to the replacement authority.

Division 8 Matters relating to licence equivalents before 1923 Act start day

914 Requests for entry permission

If, before the 2004 Act start day, the Minister was asked to grant an entry permission under the 1923 Act for land, the Minister may treat the request as a survey licence application made under chapter 4, part 1 for the land.

915 Entry permissions

- (1) This section applies if an entry permission under the 1923 Act former section 67⁶⁶⁵ is in force immediately before the 2004 Act start day for land.
- (2) On the 2004 Act start day—
 - (a) the permission is a survey licence under this Act for the land; and
 - (b) the holder of the permission is the holder of the licence.
- (3) The licence continues, subject to this Act, for the shorter of the following periods to end—

664 Section 878 (Relinquishment condition if converted ATP includes a reduction requirement) or 879 (Relinquishment condition if authority does not include a reduction requirement)

665 1923 Act, former section 67 (Permission to enter land)

- (a) the balance of the permission's term;
 - (b) the period that ends 1 year after the 2004 Act start day.
- (4) The licence is held subject to this Act and the conditions of the permission.
- (5) However, if a condition of the permission conflicts with a mandatory condition for survey licences⁶⁶⁶ or any relevant environmental condition for the licence, the mandatory condition or relevant environmental condition prevails to the extent of the inconsistency.

916 Pipeline licences

- (1) This section applies if a pipeline licence (the *old licence*) under the 1923 Act is in force immediately before the 2004 Act start day for land.
- (2) On the 2004 Act start day—
- (a) the old licence is a pipeline licence under this Act for the land (a *converted licence*); and
 - (b) the holder of the old licence is the holder of the converted licence; and
 - (c) if the old licence had a term, the converted licence is for the balance of the old licence's term; and
 - (d) the converted licence is held subject to this Act and the conditions of the old licence, other than any condition that is the same, or substantially the same, as any relevant environmental condition for the converted licence.
- (3) However, if a condition of the old licence conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
- (a) a provision of this Act;
 - (b) a mandatory condition for pipeline licences under this Act;

⁶⁶⁶ See chapter 5 (Common petroleum authority provisions).

- (c) a relevant environmental condition for the converted licence.

917 Requests for pipeline licence

If, before the 2004 Act start day, the Minister was asked to grant a pipeline licence under the 1923 Act for land, the Minister may treat the request as a pipeline licence application made under chapter 4, part 2 for the land.

918 Approvals under 1923 Act, s 75(5) continue in force

An approval under the 1923 Act, former section 75(5),⁶⁶⁷ that is in force immediately before the 2004 Act start day for land, despite the repeal of former section 75, continues in force for the land.

919 Refinery permissions

- (1) This section applies if a refinery permission under the 1923 Act, former section 66,⁶⁶⁸ is in force immediately before the 2004 Act start day.
- (2) If, immediately before the 2004 Act start day, the refinery had been constructed and was in operation, on the 2004 Act start day—
 - (a) the permission is a petroleum facility licence; and
 - (b) the holder of the permission is the holder of the licence; and
 - (c) if the permission had a term—the term of the licence is the balance of the permission's term; and
 - (d) if the permission did not have a term—the term of the licence ends 30 years after the 2004 Act start day; and
 - (e) the licence is held subject to this Act and the conditions of the permission, other than any condition that is the

667 1923 Act, former section 75 (Construction etc. of pipeline)

668 1923 Act, former section 66 (Oil refineries)

- same, or substantially the same, as any relevant environmental condition for the licence; and
- (f) until an annual fee is prescribed for the licence, the annual fee for the licence is the annual fee payable for the permission.
- (3) However, if a condition of the permission conflicts with any of the following (the *overruling provision*) the overruling provision prevails to the extent of the inconsistency—
- (a) a provision of this Act;
 - (b) a mandatory condition for petroleum facility licences;
 - (c) a relevant environmental condition for the petroleum facility licence.
- (4) If the refinery had not been constructed or was not in operation immediately before the 2004 Act start day, the permission lapses.

Division 9 Securities

920 Monetary securities

- (1) This section applies to security (the *existing security*) held as money in relation to a converted petroleum authority immediately before the 2004 Act start day.
- (2) The department must, as soon as practicable, after the 2004 Act start day, transfer the following part of the existing security (the *environmental component*) to the administering authority under the Environmental Protection Act—
 - (a) if the converted petroleum authority is an authority to prospect—the amount of the existing security, less \$4000;
 - (b) if the converted petroleum authority is a petroleum lease—the amount of the existing security, less \$10000.
- (3) On the transfer, the rest of the existing security is taken to be security given under this Act for the converted petroleum authority.

- (4) Until the transfer happens, the existing security may continue to be used for any purpose for which it was given.
- (5) In this section—
used includes realised, in whole or part.

921 Non-monetary securities

- (1) This section applies to security held, other than as money, in relation to a converted petroleum authority.
- (2) From the 2004 Act start day, the security may continue to be used for any purpose for which it was given.
- (3) However, subsection (2) does not—
 - (a) prevent the security being used after the 2004 Act start day in relation to an act done or omission made before the 2004 Act start day if it could have been used in relation to the act or omission immediately before the 2004 Act start day; or
 - (b) affect the power under this Act to require replacement security or additional security for the converted petroleum authority;⁶⁶⁹ or
 - (c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the converted petroleum authority.
- (4) In this section—
used includes realised, in whole or part.

Division 10 Compensation

922 Accrued compensation rights relating to converted petroleum authority

- (1) This section applies if—

⁶⁶⁹ See chapter 5, part 1 (Security).

- (a) a right, under the former 1923 Act compensation provisions, to compensation existed immediately before the 2004 Act start day; and
 - (b) the right relates to a converted petroleum authority.
- (2) The right continues after the 2004 Act start day.
 - (3) The compensation must be decided under the former 1923 Act compensation provisions as if the provisions had not been repealed.
 - (4) A matter relating to the compensation that, before the 2004 Act start day, had been referred to the tribunal but not decided must be decided under the former 1923 Act compensation provisions.
 - (5) In this section—
former 1923 Act compensation provisions means sections 18(5) and 97 to 99 of the 1923 Act, as they were in force immediately before the 2004 Act start day.

923 Existing compensation agreements relating to converted petroleum authority

- (1) This section applies to an agreement mentioned in section 98(1)⁶⁷⁰ of the 1923 Act, as it was in force immediately before the 2004 Act start day, for compensation relating to a converted petroleum authority.
- (2) On the 2004 Act start day, the agreement is taken to be a compensation agreement made under this Act.
- (3) The agreement may be enforced as if the agreement were a compensation agreement under chapter 5, part 5.⁶⁷¹
- (4) However, the agreement can not be the subject of an application under section 534.⁶⁷²
- (5) Subsection (3) applies even if the agreement was not valid because section 98(2) of the 1923 Act, as it was in force

670 1923 Act, section 98 (Power to agree as to compensation)

671 Chapter 5, part 5 (General compensation provisions)

672 Section 534 (Tribunal review of compensation)

immediately before the 2004 Act start day, had not been complied with.

Division 11 Miscellaneous provisions

924 Conversion of unitisation arrangement or unit development agreement to coordination arrangement

- (1) This section applies to a unit development agreement approved under the 1923 Act, section 102(2) or unitisation arrangement under that Act, if the agreement or arrangement was in force immediately before the 2004 Act start day.
- (2) On the 2004 Act start day, the agreement or arrangement is taken to be a coordination arrangement approved under section 236.⁶⁷³
- (3) The parties to the agreement or arrangement are the parties to the coordination arrangement.
- (4) For the *Trade Practices Act 1974* (Cwlth), the approval and authority under section 63(5) of that Act, as in force immediately before the 2004 Act start day, continues for the unitisation arrangement.

925 Entry notices under Petroleum Regulation 1966, s 17

- (1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before the 2004 Act start day and the notice relates to a converted petroleum tenure or a replacement tenure.
- (2) On the 2004 Act start day—
 - (a) the notice of entry is taken to be an entry notice; and
 - (b) the entry notice is taken to have been given under chapter 5, part 2;⁶⁷⁴ and
 - (c) the entry period for the entry notice is the shorter of the following periods to end—

673 Section 236 (Ministerial approval of proposed coordination arrangement)

674 Chapter 5, part 2 (Private land)

- (i) the balance of the period of the notice of entry;
- (ii) the period that ends 6 months after the 2004 Act start day.

926 Provisions for petroleum royalty

- (1) If immediately before the 2004 Act start day—
 - (a) royalty was payable under the 1923 Act for petroleum produced before the 2004 Act start day; and
 - (b) the royalty had not been paid;from the 2004 Act start day, the royalty may be recovered from the petroleum producer as petroleum royalty payable under this Act.
- (2) Chapter 6⁶⁷⁵ applies to petroleum produced before the 2004 Act start day if liability under the 1923 Act for actual payment of the royalty had not arisen before that day.
- (3) Despite subsections (1) and (2), petroleum royalty is not payable under this Act for petroleum flared or vented under an approval given under the 1923 Act before the 2004 Act start day.

927 Corresponding approvals and decisions under 1923 Act for a converted petroleum authority

- (1) This section applies to an approval or decision—
 - (a) about any of the following under the 1923 Act—
 - (i) an authority to prospect;
 - (ii) a petroleum lease;
 - (iii) a pipeline licence;
 - (iv) a refinery permission; and
 - (b) made under the 1923 Act about a matter provided for under this Act; and

675 Chapter 6 (Petroleum royalty)

- (c) that continues to have effect immediately before the 2004 Act start day.
- (2) On the 2004 Act start day, the approval or decision is taken to be an approval or decision made for the corresponding matter under this Act.
- (3) Subsection (2) applies subject to any other provision of this part.
- (4) For subsection (2), an approval under the 1923 Act, former section 56(1)(c)⁶⁷⁶ is also taken to be—
 - (a) for a converted ATP—an approval under section 73; or
 - (b) for a converted lease—an approval under 152.⁶⁷⁷

928 Existing dealing applications

- (1) This section applies if, before the 2004 Act start day—
 - (a) an application was made under the 1923 Act for approval of, or consent to, a dealing relating to a 1923 Act petroleum tenure or a licence under that Act that a converted petroleum authority replaced; and
 - (b) the application had not been decided.
- (2) If the dealing is of a type that is a permitted dealing, the application is taken to be an application under this Act for approval of a permitted dealing.
- (3) Otherwise, the application lapses.

929 Continuance of fees under 1923 Act

- (1) Subsection (2) applies if a fee (the *existing fee*) for a matter relating to a type of authority under the 1923 Act (the *corresponding matter*) is imposed under that Act.
- (2) Until a fee is prescribed for the corresponding matter for the corresponding type of authority under this Act, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter.

⁶⁷⁶ 1923 Act, former section 56 (Royalty not payable in certain cases)

⁶⁷⁷ Sections 73 and 152 (Permitted period for production or storage testing)

- (3) Subsection (2) applies to a petroleum authority whether or not it—
- (a) was granted under this Act; or
 - (b) is a converted petroleum authority.
- (4) Subsection (5) applies if—
- (a) under a converted petroleum authority, a fee (also the *existing fee*) is imposed for a matter relating to the authority; and
 - (b) the 1923 Act does not provide for a fee for the matter.
- (5) Until a fee is prescribed for the corresponding matter for the converted petroleum authority, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter under this Act.
- (6) In this section—
- fee* includes application fee, annual or other rent, licence fee and petroleum royalty.

930 Fees for existing applications

If—

- (a) before the 2004 Act start day, an application had been made for or about an approval, authority, lease, licence or permission under the 1923 Act that becomes, or will, if granted, become a petroleum authority under this Act; and
 - (b) a fee is prescribed under this Act for the application or the corresponding application under this Act;
- the Minister may waive payment of the fee, in whole or part.

931 References in Acts and documents to 1923 Act

- (1) Subject to divisions 2 and 5,⁶⁷⁸ a reference in an Act or document to—

678 Divisions 2 (Conversion of particular 1923 Act ATPs to an authority to prospect under this Act) and 5 (Conversion of particular 1923 Act leases to petroleum leases)

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

Part 4 **Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Provisions for particular existing mining tenements**

932 **Application of s 6 to particular existing mining tenements**

- (1) This section applies to a mining tenement in force immediately before the commencement, other than a coal or oil shale mining tenement.
- (2) Section 6⁶⁷⁹ applies to the mining tenement as if it had been granted after the commencement.
- (3) However, for a mining tenement other than a mining lease, section 6(3) and (6) does not apply for the carrying out of an authorised activity for a petroleum authority in the area of the tenement until 3 months after the commencement.

679 Section 6 (Relationship with Mineral Resources Act)

- (4) The Mineral Resources Act, section 403, does not apply for the carrying out of the authorised activity until 3 months after the commencement.
- (5) In this section—
commencement means the day section 6 commences.

933 Deferral of s 115(1) for existing petroleum leases

Section 115(1)⁶⁸⁰ does not apply to the holder of a petroleum lease in force on the commencement of this section until 12 months after the 2004 Act start day.

Division 2 Provision for coal seam gas

934 Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases

- (1) If section 364⁶⁸¹ applies for a petroleum lease and any applicant for the petroleum lease was the holder of a relevant mineral hydrocarbon mining lease, that section applies as if the reference in section 364(2)(b) to—
- (a) incidental coal seam gas were a reference to coal seam gas; and
 - (b) the mine working envelope were a reference to the area of the mineral hydrocarbon mining lease.
- (2) In this section—

relevant mineral hydrocarbon mining lease means a mineral hydrocarbon mining lease as defined under the Mineral Resources Act, section 739,⁶⁸² the area of which includes the overlapping ATP land to which section 364 applies.

680 Section 115 (Restriction on carrying out particular authorised activities)

681 Section 364 (Restriction on authorised activities on overlapping ATP land)

682 Mineral Resources Act, section 739 (Definitions for div 6)

Division 3 Provisions for existing Water Act bores

934A Exemption from, or deferral of, reporting provisions for existing petroleum tenure holders

- (1) This section applies to the holder of any petroleum tenure under which petroleum production is carried out before 30 June 2005.
- (2) The holder must, within 12 months after the 2004 Act start day, lodge at the following office a statement about the need to have an underground water impact report for the tenure—
 - (a) the office of the department for lodging the statement, as stated in a gazette notice by the chief executive;
 - (b) if no office is gazetted under paragraph (a)—the office of the chief executive.
- (3) The chief executive may, after considering the statement, decide whether an underground water impact report is required for the tenure.
- (4) The chief executive may require the holder to give the chief executive further information to enable the chief executive to make a decision under subsection (3).
- (5) If the chief executive decides an underground water impact report is not required, sections 256 and 267⁶⁸³ are taken never to have applied to the holder.
- (6) If the chief executive decides an underground water impact report is required, the chief executive may decide a reasonable time by which the report must be lodged.
- (7) If, under subsection (6), the chief executive decides a time, section 256 is taken not to apply to the holder until that time.
- (8) A decision under this section has no effect until the holder is given notice of it.

683 Sections 256 (Lodging report) and 267 (Obligation to lodge review reports)

934B Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day

Section 250⁶⁸⁴ only applies in relation to an existing Water Act bore that was in existence on the 2004 Act start day or came into existence after that day.

Division 4 Miscellaneous provisions**935A Deferred application of s 526 for particular petroleum authority holders**

If, immediately before the 2004 Act start day, a petroleum authority holder is lawfully carrying out an authorised activity for the authority on public land, section 526⁶⁸⁵ does not apply to the holder until 6 months after the 2004 Act start day.

936 Deferral of s 803 for existing petroleum facilities

Section 803⁶⁸⁶ does not apply for a petroleum facility that was operating at any time within 2 weeks before the commencement of that section until 1 year after the commencement.

937 Existing operating plant

- (1) Until 1 July 2005, chapter 9, parts 2 and 4, (other than part 4, division 7) do not apply to plant operated, or an activity carried out, under this Act.
- (4) Until chapter 9, parts 2 and 4 apply, the following continue to apply to the plant or activity—
 - (a) the repealed *Gas (Residual Provisions) Act 1965* as in force immediately before the commencement;
 - (b) the 1923 Act as in force immediately before the commencement.

684 Section 250 (The make good obligation)

685 Section 526 (Requirement for entry notice to carry out authorised activities)

686 Section 803 (Restriction on petroleum facility construction or operation)

938 Exclusion of ch 5, pt 3, div 1 for continuance of particular existing road uses

- (1) If, immediately before the commencement, a petroleum authority holder was using a public road in the area of the authority for transport relating to a seismic survey or drilling activity, chapter 5, part 3, division 1⁶⁸⁷ does not apply for the use while it continues.
- (2) Subsection (1) applies for the use (the *haulage use*) by a petroleum authority holder of a public road for haulage that relates to—
 - (a) the transportation of petroleum produced or processed in the area of the authority; or
 - (b) the construction of a pipeline.
- (3) Chapter 5, part 3, division 1 does not apply for the haulage use if—
 - (a) at any time within 12 months before the commencement, the holder was carrying out the haulage use; and
 - (b) the type of haulage under the haulage use is the same, or substantially the same, as the type of haulage carried out within the 12 months.
- (4) Subsection (1) applies even if the haulage use stops and later starts again.
- (5) In this section—

commencement means the day section 516⁶⁸⁸ commences.

687 Chapter 5, part 3, division 1 (Public roads)

688 Section 516 (Notice of notifiable road use)

Part 5

Transitional provisions for Petroleum and Other Legislation Amendment Act 2005

938A Pipeline licences

- (1) This section applies for a pipeline licence that became a converted licence under section 916(2)(a).
- (2) On the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the converted licence becomes a point to point pipeline licence under this Act.

938B Requests for pipeline licences

- (1) This section applies for a request mentioned in section 917 that has not been decided before the day the *Petroleum and Other Legislation Amendment Act 2005* commences.
- (2) On the day that Act commences, the request is taken to be a request for a point to point pipeline licence under this Act.

938C 1923 Act water bores

- (1) Subsection (2) applies for a water bore—
 - (a) drilled with the permission of the Minister under the 1923 Act, section 86; and
 - (b) within the area of a converted petroleum tenure.
- (2) On and from the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the water bore—
 - (a) is taken to be a water supply bore under this Act; and
 - (b) may be transferred without complying with section 288(3).
- (3) Subsection (4) applies for a water bore—
 - (a) drilled with the permission of the Minister under the 1923 Act, section 86; and
 - (b) within the area of a replacement tenure.

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

938D Decommissioning wells and bores

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

Schedule 1 Reviews and appeals

sections 817(1) and 823(3)

Table 1: Decisions subject to review

Section reference	Description of decision
387	Decision about whether proposed provision for safety management plan is reasonable
622	Refusal to issue gas quality approval
625(1) or (6)	Cancellation of gas quality approval
643(1)	Prohibition or imposition of conditions on use or operation of meter
646(2)	Decision to give revision notice about measurement scheme
646(3)(b)	Decision about period to comply with revision notice
681(2)	Decision to give revision notice about safety management plan
681(3)(b)	Decision about period to comply with revision notice
705C	Decision about whether proposed provision for principal hazard management plan for an operating plant is reasonable
728C	Refusal of application for gas work licence or authorisation
728C	Decision to impose a condition on, or to limit, a gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant

Schedule 1 (continued)

Section reference	Description of decision
763	Decision to seize a thing
772(1)(c)	Fixing later period for return of seized thing
773(1)(c), (d) or (e)	Forfeiture of seized thing
780(2)	Decision to give compliance direction
780(2) and 781(1)	Decision about period to remedy contravention or avoid likely contravention the subject of compliance direction
783(2)	Decision to give dangerous situation direction
783(2) and 784(1)	Decision about period to take steps reasonably necessary to prevent, remove or minimise danger the subject of dangerous situation
798	Decision by chief inspector to take proposed noncompliance action for gas work licence or authorisation
849	Refusal of application to chief inspector to replace gas work licence or authorisation

Table 2: Decisions, other than review decisions, subject to appeal

Section reference	Description of decision	Appeal body
Authorities to prospect		
57	Refusal to approve proposed later work program	tribunal
62	Refusal to approve amendment to work program	tribunal

Schedule 1 (continued)

Section reference	Description of decision	Appeal body
84	Refusal to renew authority to prospect	tribunal
90	Refusal of application for declaration of potential commercial area	tribunal
93	Refusal of application to extend term of declaration of potential commercial area	tribunal
97	Decision to take proposed action under section 96 for authority to prospect	tribunal
Petroleum leases		
120	Decision not to grant a petroleum lease on ATP-related application	tribunal
147	Refusal to approve proposed later development plan	tribunal
148	Deferral of approval of later development plan	tribunal
164	Refusal to renew petroleum lease	tribunal
215	Decision that claimant does not own stored petroleum or prescribed storage gas	tribunal
Water monitoring authorities		
203	Decision to refuse amendment of water monitoring authority or to grant water monitoring authority subject to the applicant's written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate	tribunal

Schedule 1 (continued)

Section reference	Description of decision	Appeal body
Provisions for existing Water Act bores		
260	Rejection of underground water impact report	tribunal
263	Requirement to lodge amended pre-closure report	tribunal
271	Requirement to lodge an amended review report	tribunal
Coordination arrangements		
242	Cancellation of coordination arrangement	tribunal
Licences		
410	Refusal to grant pipeline licence	tribunal
431	Decision to give works direction	tribunal
436(3)	Amendment of pipeline licence condition	tribunal
446	Refusal to grant petroleum facility licence	tribunal
473	Decision to cancel part 5 permission	tribunal
477	Refusal of licence amendment application	tribunal
482	Refusal to renew licence	tribunal
Decisions under chapter 5		
488	Decision to require security for petroleum authority other than security in the form and amount prescribed under section 488(2)	tribunal

Schedule 1 (continued)

Section reference	Description of decision	Appeal body
489	Decision to require increase in total security required to more than the prescribed amount under section 488(2) when the requirement is made	tribunal
517(1)	Decision to give road use direction	tribunal
527(1)	Imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant petroleum authority holder	tribunal
573(1)	Refusal to approve permitted dealing	tribunal
578	Refusal to approve surrender of petroleum authority	tribunal
578(3)	Decision to approve partial surrender of petroleum authority subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the authority in a stated way, if the applicant has not agreed in writing to the amendment	tribunal
587(2)	Decision to take action to ensure compliance with a requirement under this Act of a petroleum authority holder, other than action to which the holder has agreed	tribunal
Noncompliance action		
798	Decision to take noncompliance action for petroleum authority	tribunal
798	Decision to take proposed noncompliance action for gas work licence or authorisation	industrial court

Schedule 1 (continued)

Section reference	Description of decision	Appeal body
Other decisions		
592	Decision about required measurement or information	tribunal
604	Decision that an amount for petroleum royalty is payable and unpaid by petroleum producer	tribunal
849	Refusal of application to replace instrument if decision was made by the Minister	tribunal

Schedule 2 Dictionary

section 9

1923 Act means the *Petroleum Act 1923*.

1923 Act ATP means an authority to prospect under the 1923 Act.

1923 Act lease means a lease under the 1923 Act.

1923 Act petroleum tenure means a 1923 Act ATP or 1923 Act lease.

2004 Act start day means 31 December 2004.

2004 Act start day means the day section 32 commences.

acceptable level, of risk, see section 700.

access agreement see section 503(2).

access land, for a petroleum authority, see section 502(3).

access rights see section 502(2).

additional relinquishment condition see section 62(6).

adjacent lease see section 113(a).

affected party, for a meter, see section 660.

appeal body see section 823(2).

appeal period, for a decision, means the period provided for under section 824 for starting an appeal against the decision.

application includes a tender in response to a call for tenders.

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved auditor means a person who, under chapter 6, part 4, holds an appointment as an approved auditor.

approved form means the form approved under section 858.

Schedule 2 (continued)

area—

- 1 The *area*, of a petroleum authority, is the land to which the authority is subject, as recorded in the petroleum register.
- 2 The *area*, of a coal or oil shale mining tenement, is the land to which the tenement is subject.
- 3 The *area* of a 1923 Act petroleum tenure is the land comprised in the tenure or to which the tenure is subject, as recorded in the petroleum register under that Act.

area pipeline licence see section 404(1)(a).

associated water, for a petroleum tenure, see section 185(4).

ATP-related application see section 117(3).

auditor-general means the Queensland Auditor-General under the *Financial Administration and Audit Act 1977*.

authorised activity see section 22.

authorised officer means a person who, under section 735, holds appointment as an authorised officer.

authority to prospect see section 18(1)(a).

available storage capacity, for a natural underground reservoir, see section 208.

block see section 29(1).

board of inquiry means a board of inquiry established under section 709.

call for tenders for—

- (a) chapter 2, part 1—see section 35(1); or
- (b) chapter 2, part 2—see section 127(1).

capability criteria for—

- (a) chapter 2, part 1—see section 43(2); or
- (b) chapter 2, part 2—see section 121(3).

chief inspector means the person who, under section 735, holds appointment as the chief inspector, petroleum and gas.

Schedule 2 (continued)

closing time, for a call for tenders—

- (a) for an authority to prospect—see section 35(2)(c); or
- (b) for a petroleum lease—see section 127(2)(c).

coal exploration tenement see section 301(1).

coal mining-CSG operating plant see section 671(3).

coal mining lease see section 301(2).

Coal Mining Safety and Health Act means the *Coal Mining Safety and Health Act 1999*.

coal or oil shale development preference see section 314(3)(b).

coal or oil shale mining lease means a coal mining lease or oil shale mining lease under the Mineral Resources Act.

coal or oil shale mining tenement see section 303.

coal seam gas see section 299(1).

commercial viability report see section 230.

Commonwealth Native Title Act means the *Native Title Act 1993* (Cwlth).

compensation agreement—

- (a) for chapter 5, part 3—see section 520(1); or
- (b) for chapter 5, part 5—see section 532(1).

compensation application, for chapter 5, part 3, division 1, means an application made under section 521(1).

compensation liability—

- (a) for chapter 5, part 3, division 1—see section 519(2); or
- (b) for chapter 5, part 5—see section 531(3).

competency assessment see section 653(1).

competency assessment notice see section 653(1).

compliance direction see section 780(2).

conditions, of a petroleum authority, see section 20.

Schedule 2 (continued)

construct, a structure, includes placing the structure.

consultation notice see section 465(1).

consultation period see section 465(2)(c).

consumer, of fuel gas, see section 619.

contiguous, in relation to land, means abutting, with at least 1 side in common.

controller, of a meter, see section 632.

converted petroleum tenure see section 872.

conviction includes a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

coordination arrangement means an arrangement under section 234 that, under section 236, has taken effect.

Coordinator-General's conditions, for a lease or licence or proposed lease or licence for a significant project, means the conditions for the lease or licence stated in the Coordinator-General's report for the project.

Coordinator-General's report, for a significant project, means the Coordinator-General's report under the *State Development and Public Works Organisation Act 1971* for the EIS for the project.

costs, incurred by the State, includes the cost of services that the State provides for itself.

CSG assessment criteria see section 305(1)(b).

CSG statement see section 305(1)(a).

current owner, of stored petroleum or a prescribed storage gas, see section 220(2).

dangerous situation means a situation relating to petroleum or fuel gas in which an inspector reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

dangerous situation direction see section 783(2).

Schedule 2 (continued)

data acquisition activities see section 176(1).

data acquisition authority see section 18(1)(c).

development plan, for a petroleum lease, see section 24.

development plan criteria see section 141.

distribution pipeline see *Gas Supply Act 2003*, section 13.

domestic purposes includes irrigating a garden, not exceeding 0.25 ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

drill—

1 *drill* includes to bore.

2 *drill*, a water supply bore, includes excavating the bore.

eligible claimant, for compensation, see section 531(2).

eligible person see section 19.

enter a place includes the exercise of the rights in relation to the place under section 854.

entry notice—

(a) for chapter 5, part 2—see section 497(1)(a); and

(b) for chapter 5, part 3—see section 526(2)(b).

entry period—

(a) for chapter 5, part 2—see section 499(1)(b); and

(b) for chapter 5, part 3—see section 526B(1)(b).

Environmental Protection Act means the *Environmental Protection Act 1994*.

excluded land for—

(a) an authority to prospect—means excluded land for the authority, decided under section 99; or

(b) a petroleum lease—means excluded land for the lease, decided under section 169.

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or

Schedule 2 (continued)

not the person is a director or the person's position is given the name of executive officer.

executive safety manager, of an operating plant, see section 687.

existing user, of a natural underground reservoir, see section 205(1) and (6).

existing Water Act bore see section 245.

exploring, for petroleum, see section 14.

fee includes tax.

first authority, for chapter 5, part 4, see section 528(1).

formed road means any existing road or track on private or public land used, or that may be reasonably be capable of being used, to drive or ride motor vehicles.

fuel gas see section 11(2).

gas device (type A) see section 724(1).

gas device (type B) see section 724(3).

gasification or retorting product see section 10(2).

gas quality agreement see section 621(3).

gas quality approval see section 622(1).

gas system means a system that consists of installed gas devices containers, fittings, flues or pipes, in any combination.

Examples of a gas system—

- 1 a system of interconnected domestic gas devices installed in a dwelling house
- 2 a gas-fired industrial boiler installation

gas work, for chapter 9, part 6, see section 725.

gas work authorisation see section 18(1)(i).

gas work licence see section 18(1)(h).

geothermal exploration permit means a geothermal exploration permit under the *Geothermal Exploration Act 2004*.

Schedule 2 (continued)

holder—

- (a) of a petroleum authority, other than the following, means each person recorded as its holder in the petroleum register—
 - (i) a data acquisition authority;
 - (ii) a water monitoring authority that relates to only 1 petroleum tenure; or
- (b) of a data acquisition authority, means the person mentioned in section 182; or
- (c) of a water monitoring authority, means the person who is its holder as provided for under section 201; or
- (d) of a gas work licence or authorisation, means each person recorded as its holder in the register the chief inspector keeps under section 730.

impaired capacity, for an existing Water Act bore, see section 247.

incident means an event that—

- (a) involves, or involves a level of risk of, death of, or injury to, a person or damage to property that is not at an acceptable level; and
- (b) happens—
 - (i) at an operating plant, for any reason; or
 - (ii) at another place because of the presence, or perceived likely presence, of petroleum or fuel gas or a prescribed storage gas.

incidental coal seam gas see section 299(2).

independent viability assessment see section 232(2).

information-giver, for chapter 3, part 8, see section 390(1).

information notice, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) all rights of review or appeal under this Act;

Schedule 2 (continued)

- (c) the period in which any review or appeal under this Act must be started;
- (d) how rights of review or appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

initial development plan requirements see section 137.

initial work program requirements see section 46.

inspector means a person who under section 735 holds appointment as an inspector, petroleum and gas, or who is—

- (a) the chief inspector; or
- (b) the deputy chief inspector, petroleum and gas.

interfere with includes tamper with.

land includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

later development plan requirements see section 142.

later work program requirements see section 50.

licence see section 18(4).

licensed water bore driller means an individual who holds a water bore driller's licence under the Water Act.

LPG see section 11(1).

make good agreement see section 272(1).

make good obligation, for a petroleum tenure holder, see section 250(4).

mandatory condition, of a petroleum authority, see section 20(2).

measurement, of petroleum or fuel gas, see section 634.

measurement scheme, for a meter, see section 633.

meter see section 631.

Schedule 2 (continued)

mineable oil shale deposit means a mineable oil shale deposit prescribed under section 690(1)(f)(i)(B).⁶⁸⁹

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means—

- (a) a mining tenement under the Mineral Resources Act; or
- (b) a tenure held from the State under another Act about mining, under which tenure the holder is authorised to carry out mining under the Mineral Resources Act or a related mineral or energy resources activity.

mining lease see Mineral Resources Act, schedule.

mining lease application period see section 323(2).

mining tenement means a mining tenement under the Mineral Resources Act.

monitoring report means a report under section 266.

natural underground reservoir see section 13.

negotiation notice see section 221(2)(a).

new authorities, for an application to divide an authority to prospect, see section 103(1).

new leases, for an application to divide a petroleum lease, see section 171(1).

noncompliance action means action of a type mentioned in section 790.

non-owner lease see section 221(1).

notice means a written notice.

notice of claim see section 213(1).

notifiable road use, for a petroleum authority, see section 515(1).

occupier—

689 Section 690 (Content requirements for safety reports)

Schedule 2 (continued)

- 1 Other than for chapters 9 and 10, a person is the *occupier* of a place only if—
 - (i) under an Act, the person has a right to occupy the place, other than under a mining interest; or
 - (ii) an occupier under subparagraph (i) has given the person the right to occupy the place.
- 2 For chapters 9 and 10, an *occupier* of a place includes any one who reasonably appears to be, claims to be or acts as if he or she is, the occupier of the place.

official means the Minister, the chief executive, an inspector or an authorised officer.

oil shale see section 300.

oil shale exploration tenement see section 302(1).

oil shale mining lease see section 302(2).

old lease, for chapter 2, part 6, division 3, see section 212(1)(a).

on, land or another place, includes across, attached to, in, under or over the land or place.

operate, a pipeline or petroleum facility—

- 1 *Operate*, a pipeline or petroleum facility, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline or facility.
- 2 For item 1, using a pipeline includes using it to transport petroleum or if, under section 402, the pipeline may be used to transport another substance prescribed under a regulation, the other substance.

operating plant see section 670.

operator, of an operating plant, see section 673.

original authority, for an application to divide an authority to prospect, see section 103(1).

original decision see section 817(1).

Schedule 2 (continued)

original lease, for an application to divide a petroleum lease, see section 171(1).

original notional sub-blocks of an authority to prospect—

- 1 The *original notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the following time—
 - (a) if the authority was granted before the 2004 Act start day—immediately after its first renewal after that day;
 - (b) if the authority was granted after the 2004 Act start day—when it was originally granted.
- 2 However, the *original notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a petroleum lease or 1923 Act lease.
- 3 For item 1, if the instrument—
 - (a) states that the authority’s area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.

overlapping ATP land, for a petroleum lease, see section 341(2)(c).

owner—

- 1 An *owner*, of land, means each person as follows in relation to the land—
 - (a) for freehold land—a registered owner;
 - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;

Schedule 2 (continued)

- (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
- (d) for a public road—the public road authority for the road;
- (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
- (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
- (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;
- (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
 - (A) if, under the *NCA*, the park or reserve has trustees whose powers are not restricted—the trustees; or
 - (B) otherwise—the chief executive of the department in which the *NCA* is administered;
- (i) for DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
- (j) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3⁶⁹⁰—a relevant local government;
- (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a

690 *Local Government (Aboriginal Lands) Act 1978*, section 3 (Grant of leases to councils)

Schedule 2 (continued)

reserve because of section 84(2) or 84(4)(b)⁶⁹¹ of that Act—each grantee of the land;

- (l) for land under the *Land Act 1994* for which there are trustees—a trustee;
- (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
- (n) for land vested in the Minister administering the *Education (General Provisions) Act 2006*—that Minister;
- (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
- (p) for land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest.
- (q) for any of the following land under the NCA—the State—
 - (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (scientific);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (recovery);
 - (vi) a forest reserve.

2 Also, a mortgagee of land is the *owner* of land if—

⁶⁹¹ *Torres Strait Islander Land Act 1991*, section 84 (Application of Mineral Resources Act)

Schedule 2 (continued)

- (i) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (ii) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.
- 3 The *owner* of an existing Water Act bore is—
- (a) the person who owns the land on which the bore is located; or
 - (b) any person who holds a lease over the land.
- 4 The *owner*, of a thing that has been seized under this Act, includes a person who would be entitled to possession of the thing had it not been seized.
- 5 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

ownership relinquishment notice see section 223(3)(b).

part 5 permission see section 463.

permitted dealing see section 568.

petroleum see section 10.

petroleum authority see section 18(2).

petroleum discovery includes a discovery of a natural underground reservoir that has, or is likely to have, commercial storage potential under this Act.

petroleum facility see section 17.

petroleum facility land, for a petroleum facility licence, see section 439.

petroleum facility licence see section 18(1)(g).

petroleum lease see section 18(1)(b).

Schedule 2 (continued)

petroleum producer includes—

- (a) for petroleum produced under this Act—the petroleum tenure holder who produces it or for whom it is produced; or
- (b) for petroleum produced under the 1923 Act—the authority to prospect holder or petroleum lease holder under that Act who produces it or for whom it is produced; or
- (c) for petroleum that is incidental coal seam gas mined under the Mineral Resources Act, section 318CM⁶⁹²—the coal or oil shale mining lease holder who mines it or for whom it is mined.

petroleum register means the register the chief executive keeps under section 564.

petroleum royalty means petroleum royalty imposed under section 590.

petroleum tenure see section 18(3).

petroleum well—

- 1 A *petroleum well* is a hole in the ground made or being made by drilling, boring or any other means—
 - (a) to explore for or produce petroleum; or
 - (b) to inject petroleum or a prescribed storage gas into a natural underground reservoir; or
 - (c) through which petroleum or a prescribed storage gas may be produced.
- 2 For item 1, a prescribed storage gas is produced when it is recovered or released to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.
- 3 A *petroleum well* includes the casing for the well and any wellhead for the well attached to it.

⁶⁹² Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas)

Schedule 2 (continued)

- 4 To remove any doubt, it is declared that a *petroleum well* does not include any of the following—
- (a) a water observation bore;
 - (b) a water supply bore;
 - (c) an existing Water Act bore;
 - (d) a seismic shot hole or shallow hole drilled to work out a geological structure.

pipeline see section 16.

pipeline land, for a pipeline licence, see section 399.

pipeline licence see section 18(1)(f).

place includes land.

plan period, for a development plan, means the period for which the plan applies.

point-to-point pipeline licence see section 404(1)(b).

potential commercial area, for an authority to prospect, means an area declared under section 90 to be a potential commercial area for the authority.

pre-closure report see section 261(1).

preference decision see section 319(2).

prescribed incidents see section 706(1)(a).

prescribed odour, for fuel gas, see section 627.

prescribed quality, for fuel gas, see section 620(1).

prescribed storage gas see section 12.

prevent includes each of the following—

- (a) hinder;
- (b) obstruct.

principal hazard management plan, for an operating plant, means the principal hazard management plan for the plant, as made under section 705A.

private land—

Schedule 2 (continued)

- 1 *Private land* is—
 - (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of any of the following interests in relation to the land—
 - (a) a mining interest;
 - (b) an occupation right under a permit under the *Land Act 1994*;
 - (c) land owned by a public land authority.

produced, for petroleum, see section 15.

production commencement day, for a petroleum lease, see section 123(3)(c).

program period, for a work program, means the period for which the program applies.

proposed user, of a natural underground reservoir, see section 209(1).

provision of an authority under this Act, means a provision of the authority, as defined under section 21.

public land means land other than—

- (a) private land; or
- (b) land to the extent of any of the following interests in relation to land—
 - (i) a mining interest;
 - (ii) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

- (a) for a public road—the road authority for the road; or
- (b) if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or

Schedule 2 (continued)

- (c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road means an area of land that—

- (a) is open to, or used by, the public; and
- (b) is developed for, or has as one of its main uses—
- (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

publish, a notice, means to publish it in any of the following ways—

- (a) in a journal published by the department or under the Minister's authority;
- (b) in another publication considered appropriate by—
- (i) generally—the Minister; or
 - (ii) if the subject of the notice relates to safety—the chief inspector;
- (c) on the department's web site on the internet;
- (d) by placing it on a public notice board, established and maintained by the department, at—
- (i) the department's head office; and

Schedule 2 (continued)

- (ii) other places the chief executive considers appropriate.

reasonably believes means to believe on grounds that are reasonable in the circumstances.

reasonably suspects means to suspect on grounds that are reasonable in the circumstances.

recipient, for chapter 3, part 8, see section 390(1).

relevant arrangement, for chapter 2, part 2, see section 121(2)(b).

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

relevant environmental condition, for a petroleum authority, means a condition of any relevant environmental authority for the petroleum authority.

relevant lease, for a coordination arrangement or proposed coordination arrangement, see section 234(1).

relevant official, for noncompliance action, see section 789(2).

relinquishment condition—

- 1 Generally, the *relinquishment condition*, for an authority to prospect is the *relinquishment condition* under section 65(1).
- 2 However if chapter 15, part 3, division 2 applies, and the authority is an authority to which section 878 or 879 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.
- 3 The *relinquishment condition* for a lease is the *relinquishment condition* under section 329(2).

remedial powers see section 580(2).

replacement tenure see section 908.

Schedule 2 (continued)

report means a written report.

required information, for chapter 5, part 7, division 1, subdivision 3, see section 549.

requirements for grant see section 120(1).

restoration measures, for an existing Water Act bore, see section 248.

review application, for chapter 12, see section 817(1).

review decision see section 820(1)(b).

reviewer see section 817(3).

review report means a report under section 267.

road use direction see section 517(1).

royalty information see section 594(4).

royalty return see section 594(3).

safety management plan—

- 1 A *safety management plan*, for an operating plant, is the plan made under section 674 as in force from time to time.
- 2 If the plant has stages, a reference to the term includes each safety management plan developed for each stage.

safety requirements see section 669.

satisfies, the capability criteria, for—

- (a) chapter 2, part 1—see section 43(3); or
- (b) chapter 2, part 2—see section 121(4).

second authority, for chapter 5, part 4, see section 528(1).

security includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

service provider, for an affected party, see section 661.

service provider test, for a meter, see section 662(1).

Schedule 2 (continued)

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).⁶⁹³

share, of a petroleum authority, means any interest held by a person as a holder of the authority in all of the area of the authority.

significant project means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

site safety manager means a site safety manager appointed under section 692 or any operator mentioned in section 694.

special criteria for—

- (a) chapter 2, part 1—see section 35(2)(e)(iii); or
- (b) chapter 2, part 2—see section 127(2)(e)(iii).

specific purpose mining lease means a mining lease that, under the Mineral Resources Act, section 234(1)(b), is granted for a purpose other than mining.

stage, of an operating plant, see section 672.

standard operating procedures, for an operating plant, is a documented way of working, or an arrangement of facilities, at the plant to achieve an acceptable level of risk.

State-controlled road see *Transport Infrastructure Act 1994*, schedule 6.

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

storage agreement see section 205(1) and (5).

storage capacity, of a natural underground reservoir, means the measure of its potential to store petroleum or a prescribed storage gas.

⁶⁹³ *Copyright Act 1968* (Cwlth), section 183 (Use of copyright material for the services of the Crown)

Schedule 2 (continued)

structure means anything built or constructed, whether or not attached to land.

sub-block see section 29(2).

submission means a written submission.

submission period, for chapter 3, part 2, see section 314(2).

supply—

- 1 *Supply* means to supply by way of business.
- 2 The term includes each of the following—
 - (a) give or sell;
 - (b) agree, attempt or offer to give or sell;
 - (c) advertise to give or sell;
 - (d) cause or permit to be given or sold;
 - (e) give away or swap.

survey licence see section 18(1)(e).

takeover condition see section 413(1).

the public interest means a consideration of each of the following—

- (a) government policy;
- (b) value of commodity production (including time value);
- (c) employment creation;
- (d) total return to the State and to Australia (including royalty and rent), assessed on both a direct and indirect basis, so that, for example, downstream value adding is included;
- (e) social impacts;
- (f) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (g) impacts on aesthetic, amenity, cultural or environmental values.

tolerance for error, for a meter, see section 635.

Schedule 2 (continued)

transfer, of a petroleum well, water observation bore or water supply bore, see section 285(2).

transmission pipeline means a pipeline operated, or to be operated, for the primary purpose of conveying petroleum directly to a market after it has been processed, whether or not it is subsequently processed or reprocessed.

tribunal means the Land and Resources Tribunal.

trigger threshold, for an aquifer, means the trigger threshold for the aquifer under chapter 2, part 9, division 3, subdivision 1.

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

underground water flow model, for existing Water Act bores, means an underground water flow model that complies with section 257.

underground water impact report means an underground water impact report lodged under section 256, as amended by any review report.

underground water rights, for a petroleum tenure, see section 185(2).

unduly affected, for an existing Water Act bore, see section 246.

unpaid petroleum royalty interest means interest payable under section 602.

usual relinquishment see section 66(3).

validation test, for a meter, see section 666(2).

waiver of entry notice—

(a) for chapter 5, part 2—see section 497(3); and

(b) for chapter 5, part 2—see section 526(3).

Water Act means the *Water Act 2000*.

Water Act regulator means the chief executive of the department that administers the Water Act.

Schedule 2 (continued)

water licence means a licence under the Water Act.

water monitoring authority see section 18(1)(d).

water observation bore—

- 1 A *water observation bore* is a bore to monitor water levels.
- 2 A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

water supply bore means—

- (a) a water supply bore under section 185(7); or
- (b) a petroleum well that, under chapter 2, part 10, division 2, has been converted to a water supply bore.

wellhead means the casing head, and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

work program, for an authority to prospect, see section 23.

work program criteria see section 49(2).

works direction see section 431(2).

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 30 October 2006. Future amendments of the Petroleum and Gas (Production and Safety) Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1 rv	2004 Act No. 26 (amd 2004 No. 33)	31 December 2004	Revision notice issued for R1 and R2
1A rv	2005 Act No. 3	3 March 2005	R1A rv withdrawn, see R2 rv
2 rv	—	3 March 2005	
2A rv	2005 Act No. 53	18 November 2005	
2B rv	2005 Act No. 57	28 November 2005	
2C rv	2005 Act No. 68	6 February 2006	
2D rv	2006 Act No. 9	15 March 2006	
2E rv	2006 Act No. 31	1 June 2006	
2F rv	2006 Act No. 39	30 October 2006	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1, 2

6 List of legislation

Petroleum and Gas (Production and Safety) Act 2004 No. 25

date of assent 12 October 2004
 ss 1–2, 968 (to the extent it ins pt 19 div 6 sdivs 1–2 for the Mineral Resources Act 1989) commenced on date of assent (see s 2(1))
 remaining provisions commenced 31 December 2004 (2004 SL No. 308)
 amending legislation—

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1–2(1), pt 3, s 69(2) sch (this Act is amended, see amending legislation below)

date of assent 12 October 2004
 ss 1–2 commenced on date of assent
 remaining provisions commenced 13 October 2004 (see s 2(1))
 amending legislation—

Natural Resources Legislation Amendment Act 2004 No. 33 ss 1, 21A, 21C–21D (amends 2004 No. 26 above)

date of assent 27 October 2004
 commenced on date of assent

Petroleum and Other Legislation Amendment Act 2005 No. 3 s 1, pt 4, s 105 sch

date of assent 3 March 2005
 commenced on date of assent

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 ss 1, 159 sch

date of assent 18 November 2005
 commenced on date of assent

State Development and Public Works Organisation and Other Legislation Amendment Act 2005 No. 57 pts 1–2

date of assent 28 November 2005
 commenced on date of assent

Natural Resources and Other Legislation Amendment Act 2005 No. 68 pt 1, s 150 sch

date of assent 8 December 2005
 ss 1–2 commenced on date of assent
 remaining provisions commenced 6 February 2006 (2006 SL No. 6)

Audit Legislation Amendment Act 2006 No. 9 pts 1, 14

date of assent 15 March 2006
 commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2006 No. 31 s 1, pt 4

date of assent 1 June 2006
 commenced on date of assent

Education (General Provisions) Act 2006 No. 39 ss 1, 2(3), 512(1) sch 1

date of assent 11 August 2006
 ss 1–2 commenced on date of assent
 remaining provisions commenced 30 October 2006 (2006 SL No. 247)

7 List of annotations

Application of Act to coastal waters of the State

s 5 amd 2006 No. 31 s 10

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s 6A ins 2004 No. 26 s 70
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s 65 amd 2004 No. 26 ss 80(2)–(3), 69(2) sch**Consequence of failure to comply with relinquishment condition**

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s 152 amd 2004 No. 26 s 102

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s 159 amd 2004 No. 26 ss 104 (amd 2004 No. 33 s 21C), 69(2) sch

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s 169 amd 2004 No. 26 s 106

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s 178 amd 2004 No. 26 s 108; 2005 No. 3 s 105 sch

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s 202A ins 2004 No. 26 s 114

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s 203 amd 2004 No. 26 s 69(2) sch

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s 246 amd 2005 No. 3 s 55; 2005 No. 68 s 150 sch

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s 251 amd 2005 No. 3 s 57

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s 255 amd 2005 No. 3 s 58

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s 307 amd 2005 No. 3 s 105 sch

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s 313 amd 2004 No. 26 s 127

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s 328 amd 2004 No. 26 s 130

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s 335 amd 2005 No. 3 s 105 sch

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s 379 amd 2005 No. 3 s 105 sch

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s 380 amd 2004 No. 26 s 140(2)–(3)

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s 389 amd 2004 No. 26 s 147

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s 445 amd 2004 No. 26 s 157

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s 446 amd 2005 No. 57 s 13

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s 801 amd 2004 No. 26 s 69(2) sch

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s 805 amd 2004 No. 26 ss 234, 69(2) sch

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s 807 amd 2004 No. 26 s 235

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PART 3—TRANSITIONAL PROVISIONS RELATING TO 1923 ACT

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s 875 ins 2004 No. 26 s 247

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Exclusion from area of land in area of coal mining lease or oil shale mining lease

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s 878 ins 2004 No. 26 s 247

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sdiv hdg ins 2004 No. 26 s 247

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s 903 ins 2004 No. 26 s 247
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Petroleum lease under this Act may be granted if so provided

s 906 ins 2004 No. 26 s 247

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s 922 ins 2004 No. 26 s 247
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s 927 ins 2004 No. 26 s 247
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Continuance of fees under 1923 Act

s 929 ins 2004 No. 26 s 247

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s 930 ins 2004 No. 26 s 247

References in Acts and documents to 1923 Act

s 931 ins 2004 No. 26 s 247
amd 2005 No. 3 s 96

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pt hdg (prev pt 3 hdg) renum 2004 No. 26 s 246

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s 932 (prev s 872) renum 2004 No. 26 s 248
amd 2004 No. 26 s 69(2) sch

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s 933 (prev s 873) renum 2004 No. 26 s 248
amd 2004 No. 26 ss 249, 69(2) sch

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Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases

s 934 (prev s 874) renum 2004 No. 26 s 248
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Exemption from, or deferral of, reporting provisions for existing petroleum tenure holders

s 934A ins 2004 No. 26 s 252
amd 2005 No. 3 s 105 sch

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

s 934B ins 2004 No. 26 s 252
amd 2005 No. 3 s 105 sch

Division 4—Miscellaneous provisions

div hdg (prev div 3 hdg) renum 2004 No. 26 s 251

Continuation of petroleum royalty exemption for flaring or venting under 1923 Act

prov hdg amd 2004 No. 26 s 253(1)
s 935 (prev s 875) renum 2004 No. 26 s 248
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om 2005 No. 3 s 97

Deferred application of s 526 for particular petroleum authority holders

s 935A ins 2004 No. 26 s 254

Deferral of s 803 for existing petroleum facilities

prov hdg amd 2004 No. 26 s 69(2) sch
s 936 (prev s 876) renum 2004 No. 26 s 248

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s 937 (prev s 877) renum 2004 No. 26 s 248
amd 2004 No. 26 s 69(2) sch; 2005 No. 3 s 98

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s 938 (prev s 878) renum 2004 No. 26 s 248
amd 2004 No. 26 s 69(2) sch

PART 5—TRANSITIONAL PROVISIONS FOR PETROLEUM AND OTHER LEGISLATION AMENDMENT ACT 2005

pt hdg ins 2005 No. 3 s 99

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s 938C ins 2005 No. 3 s 99

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8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

- Form ATP-01A Version 1—Application to Tender for Authority to Prospect**
pubd gaz 17 December 2004 p 1215–16
- Form ATP-02A Version 1—Application for Renewal of Authority to Prospect**
pubd gaz 17 December 2004 p 1215–16
- Form ATP-04A Version 1—Application to Divide Granted Authority to Prospect**
pubd gaz 17 December 2004 p 1215–16
- Form ATP-07A Version 1—Application for the Minister to Declare Potential Commercial Area**
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- Form ATP-10A Version 1—Authority to Prospect - Authority**
pubd gaz 17 December 2004 p 1215–16
- Form DAA-01A Version 1—Application for Data Acquisition Authority**
pubd gaz 17 December 2004 p 1215–16
- Form PA-01A Version 1—Application for Surrender of Petroleum Authorities (Whole or Part)**
pubd gaz 17 December 2004 p 1215–16
- Form PA-05A Version 2—Application for Approval to Transfer a Petroleum Authority or Tenure**
pubd gaz 9 September 2005 p 94
- Form PA-05AA Version 1—Application for Approval to Mortgage a Petroleum Authority or Tenure, or to Release, Transfer or Surrender a Mortgage**
pubd gaz 9 September 2005 p 94
- Form PA-05AB Version 1—Application for Approval to Sublease, or Transfer a Sublease, for a Petroleum Lease**
pubd gaz 9 September 2005 p 94
- Form PA-10A Version 2—Application to Amend Licence**
pubd gaz 9 September 2005 p 94
- Form PA-11A Version 1—Administrative Notifications**
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- Form PA-16A Version 1—Review of Application**
pubd gaz 24 March 2005 p 951
- Form PA-18A Version 1—Lodging a Prescribed Agreement**
pubd gaz 17 December 2004 p 1215–16

Form PA-19A Version 3—Notice of Intention to Drill a Petroleum Well or a Water Bore

pubd gaz 9 September 2005 p 94

Form PA-20A Version 3—Notice of the Completion, Alteration or Abandonment of a Petroleum Well or Water Bore

pubd gaz 9 September 2005 p 94

Form PA-21A Version 3—Notice of Intention to Carry Out Seismic Survey or Scientific or Technical Survey

pubd gaz 9 September 2005 p 94

Form PA-22A Version 3—Notice of Completion of Seismic Survey or Scientific or Technical Survey

pubd gaz 14 October 2005 p 528

Form PA-23A Version 1—Entry Notice

pubd gaz 17 December 2004 p 1215–16

Form PA-23AAA Version 1—The Rights and Obligations of Holders, Owners and Occupiers Relating to the Entry of Land under a Petroleum Authority

pubd gaz 11 February 2005 p 455

Form PFL-01A Version 1—Application for Petroleum Facility Licence

pubd gaz 17 December 2004 p 1215–16

Form PFL-02A Version 1—Application for Renewal of Petroleum Facility Licence

pubd gaz 17 December 2004 p 1215–16

Form PFL-03A Version 1—Petroleum Facility Licence—Licence

pubd gaz 17 December 2004 p 1215–16

Form PGA389 Version 1—Application for Exemption From Additional SMP Content Requirements

pubd gaz 24 March 2005 p 951

Form PGA622 Version 1—Application for gas quality approval

pubd gaz 1 April 2005 p 1016

Form PGA658 Version 1—Application to install and use pre-payment gas meters

pubd gaz 1 April 2005 p 1016

Form PGA733(2) Version 1—Application to offer for sale, install or use a gas device or gas fitting

pubd gaz 1 April 2005 p 1016

Form PGA734 Version 2—Gas System Compliance Certificate

pubd gaz 11 November 2005 p 888

Form PGA734(2) Version 1—Gas System Defect Notice

pubd gaz 11 November 2005 p 888

Form PGR76 Version 1—Application for section 76 exemption from regulations

pubd gaz 1 April 2005 p 1016

Form PGR101/102 Version 1—Vehicle/vessel Inspection Certificate

pubd gaz 1 April 2005 p 1016

- Form PGR114 Version 1—Application for approval to decant LPG**
pubd gaz 1 April 2005 p 1016
- Form PL-01A Version 2—Application for ATP-Related Petroleum Lease**
pubd gaz 4 November 2005 pp 799
- Form PL-01AA Version 1—Application for Petroleum Lease by or jointly with Coal or Oil Shale Mining Tenement Holder**
pubd gaz 4 November 2005 pp 799
- Form PL-02A Version 1—Application to Tender for Petroleum Lease**
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- Form PL-03A Version 1—Application for Renewal of Petroleum Lease**
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- Form PL-05A Version 1—Application to Amend Relinquishment Condition of Petroleum Lease**
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- Form PL-06A Version 1—Application to Divide Granted Conventional Petroleum Lease**
pubd gaz 17 December 2004 p 1215–16
- Form PL-07A Version 1—Application to Divide Granted Coal Seam Gas Petroleum Lease**
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- Form PL-16A Version 1—Petroleum Lease—Authority**
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- Form PPL-01A Version 1—Application for Pipeline Licence**
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- Form PPL-02A Version 1—Application for Renewal of Pipeline Licence**
pubd gaz 17 December 2004 p 1215–16
- Form PPL-03A Version 1—Application for Permission to Enter Land for the Purpose of Exercising Rights Under a Pipeline Licence or Petroleum Facility Licence (A “Part 5 Permission”)**
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- Form PPL-05A Version 1—Pipeline licence - Licence**
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- Form PSL-01A Version 1—Application for Survey Licence**
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- Form PSL-02A Version 1—Survey licence - Licence**
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- Form WRA-01A Version 1—Application for Water Monitoring Authority**
pubd gaz 17 December 2004 p 1215–16
- Form WRA-02A Version 1—Notification of Transfer of Water Supply Bore or Water Observation Bore to Landowner**
pubd gaz 17 December 2004 p 1215–16

Form WRA-03A Version 1—Notification of Transfer of Petroleum Well to Holder of Geothermal Exploration Permit or Mining Tenement

pubd gaz 17 December 2004 p 1215–16

Form WRA-04A Version 1—Notification of Transfer of Water Observation Bore to Holder of Petroleum Tenure or Water Monitoring Authority

pubd gaz 17 December 2004 p 1215–16

Form WRA-05A Version 1—Notification of Conversion of Petroleum Well to Water Supply Bore

pubd gaz 17 December 2004 p 1215–16

Form WRA-06A Version 1—Application to Amend a Water Monitoring Authority

pubd gaz 17 December 2004 p 1215–16

Form WRA-07A Version 1—Application for a Trigger Threshold

pubd gaz 17 December 2004 p 1215–16

Form WRA-08A Version 1—Water Monitoring Authority - Authority

pubd gaz 17 December 2004 p 1215–16