



# **Petroleum Act 1923**

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## Queensland

# Petroleum Act 1923

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# Petroleum Act 1923

**An Act to make better provision for encouraging and regulating the mining for petroleum and natural gas in the State and the conveying of petroleum and natural gas, wherever recovered**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Petroleum Act 1923*.

### 2 Definitions

In this Act—

*1923 Act petroleum interest* means—

- (a) a 1923 Act petroleum tenure; or
- (b) a right existing under, or in relation to, a 1923 Act petroleum tenure.

*1923 Act petroleum tenure*—

- (a) generally, means an authority to prospect or lease under this Act; and
- (b) for the following provisions, includes a water monitoring authority—
  - (i) section 75K;
  - (ii) part 6D, divisions 3 and 4;
  - (iii) part 6L, division 2;
  - (iv) parts 6O, 6P and 6R.

**2004 Act** means the *Petroleum and Gas (Production and Safety) Act 2004*.

**2004 Act ATP** means an authority to prospect under the 2004 Act.

**2004 Act lease** means a petroleum lease under the 2004 Act.

**2004 Act petroleum authority** see the 2004 Act, section 18(2).

**2004 Act petroleum tenure** means a 2004 Act ATP or 2004 Act lease.

**acquired land** means land that was taken under a resumption law, other than by taking or otherwise creating an easement, if all petroleum interests relating to the land were extinguished under section 124A.

**ALA** means the *Acquisition of Land Act 1967*.

**appeal period**, for a decision, means the period provided for under section 105 for starting an appeal against the decision.

**apply**, in relation to making an application, has the meaning affected by section 124AA.

**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.

**area**—

- 1 The *area* of a 1923 Act petroleum tenure is any land to which the tenure is subject, as recorded in the register.
- 2 However, the *area* of a 1923 Act petroleum tenure does not include any excluded land for the tenure.

*Note*—

See also section 124B in relation to the exclusion of land from a 1923 Act petroleum tenure's area following the taking of the land under a resumption law.

- 3 The *area* of a 2004 Act petroleum tenure is the land to which the tenure is subject, as recorded in the register.

- 
- 4 The *area* of a mining tenement is the land to which the tenement is subject.

***authorised activity***—

- 1 An *authorised activity*, for a 1923 Act petroleum tenure or water monitoring authority, is an activity that its holder is, under this Act, the tenure or authority, entitled to carry out in relation to the tenure or authority.

*Note*—

The carrying out of particular activities on particular land in a 1923 Act petroleum tenure's area may not be authorised following the taking of the land under a resumption law. See section 124B.

- 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 in relation to the tenement.
- 3 An *authorised activity*, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out or exercise in relation to the authority.
- 4 An *authorised activity*, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or the tenure, entitled to carry out or exercise in relation to the tenure.

***authority to prospect*** means an authority to prospect under this Act.

***block*** means the land, identified in the way approved by the chief executive, 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
- (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.

**capability criteria**, for a 1923 Act petroleum tenure, means the extent to which the Minister is of the opinion that its holder is capable of carrying out authorised activities for the tenure, having regard to the holder's—

- (a) financial and technical resources; and
- (b) ability to manage petroleum exploration and production.

**coal exploration tenement** see section 76M(1).

**coal mining lease** see section 76M(2).

**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** means a coal mining or oil shale mining tenement under the Mineral Resources Act.

**coal seam gas** see section 76K(1).

**commercial viability report** see section 75F(1).

**Common Provisions Act** means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

**Commonwealth Native Title Act** means the *Native Title Act 1993* (Cwlth).

**compensation liability** see the Common Provisions Act, section 81(2).

**conditions** of a 1923 Act petroleum tenure means—

- (a) the conditions stated in it from time to time; and
- (b) the tenure holder's obligations under this Act; and
- (c) any condition of the tenure under this Act; and
- (d) a condition that a tenure holder must ensure each person acting for the holder who carries out an authorised activity for the tenure complies with its conditions to the extent they apply to the carrying out of the activity.

*Note—*

For who may carry out an authorised activity for a holder, see section 75E.

***conduct and compensation agreement*** see the Common Provisions Act, section 83(1).

***conduct and compensation agreement requirement*** see section 78Q(2).

***conference election notice*** see the Common Provisions Act, section 83A(2).

***coordinated development agreement*** see section 177(4).

***coordination arrangement*** means a coordination arrangement under the 2004 Act.

***crude oil*** means petroleum oil in its natural state before it has been refined or otherwise treated but from which water and other foreign substances may have been extracted.

***CSG assessment criteria*** see section 76U(1)(b).

***CSG statement*** see section 76U(1)(a).

***current term***, of an authority to prospect, see section 171.

***dangerous situation*** means a situation relating to petroleum, or fuel gas as defined under the 2004 Act, in which an inspector under the 2004 Act 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.

***dealing***, in relation to a 1923 Act petroleum tenure, means a dealing with a resource authority, under the Common Provisions Act, that is a 1923 Act petroleum tenure.

***deferral agreement*** see the Common Provisions Act, section 44.

***development plan***—

- 1 The *development plan* for a lease is—
  - (a) for a lease in force before 31 December 2004—its current program for development and production under former section 50 that, under section 156, is taken to be its development plan; or
  - (b) for a lease granted after 31 December 2004—the proposed program for development and production

of petroleum for the application for the lease, lodged under section 40(2)(b).

2 However, if, under part 6, division 2, a later development plan is approved for the lease, the later development plan is the development plan for the lease.

**drill**, other than for sections 48, 83, 84 and 89—

- (a) includes to bore; and
- (b) for, a water supply bore, includes excavating the bore.

**drilling** means drilling, for sections 48, 83, 84 and 89, or boring.

**eligible claimant** see the Common Provisions Act, section 81(1).

**enter** a place includes the exercise of the rights in relation to the place under section 74X.

**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 18A; or
- (b) a lease, means excluded land for the lease, decided under section 40B.

*Note—*

For an area of land in the area of a coal or oil shale mining lease becoming excluded land, see section 154.

**executive officer**, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

**explore**, for petroleum, means to carry out an activity for the purpose of finding petroleum in a natural underground reservoir.

*Examples—*

- conducting a geochemical, geological or geophysical survey

- 
- drilling a well for petroleum or the investigation of the geological structure or stratigraphy in the well
  - carrying out testing in relation to a well
  - taking a sample for chemical or other analysis

*fee* includes tax.

***Geothermal Act*** see section 4A.

***geothermal activity*** see the Geothermal Act, section 18.

***geothermal coordination arrangement*** see the Geothermal Act, section 138(4).

***geothermal exploration permit*** means a geothermal exploration permit under the *Geothermal Exploration Act 2004*.

***geothermal lease*** see the Geothermal Act, section 19(1)(b).

***geothermal permit*** see the Geothermal Act, section 19(1)(a).

***geothermal tenure*** see the Geothermal Act, section 19(2).

***GHG*** means greenhouse gas.

***GHG authority*** see the GHG storage Act, section 18(3).

***GHG coordination arrangement*** see the GHG storage Act, section 186(3).

***GHG lease*** see the GHG storage Act, section 18(1)(b).

***GHG permit*** see the GHG storage Act, section 18(1)(a).

***GHG storage Act*** see section 4A.

***GHG storage activity*** means an authorised activity under the GHG storage Act for a GHG authority.

***GHG stream*** see the GHG storage Act, section 12.

***GHG stream storage*** see the GHG storage Act, section 14.

***GHG tenure*** see the GHG storage Act, section 18(2).

***give***, a document to the Minister or the chief executive, has the meaning affected by section 124AA.

**holder**, of a 1923 Act petroleum tenure, means each person recorded in the register as its holder.

**incidental coal seam gas** see section 76K(2).

**independent viability assessment** see section 75H(2).

**information-giver**, for part 6F, see section 78A(1).

**information notice**, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) all appeal rights under this Act;
- (c) the period in which any appeal under this Act must be started;
- (d) how appeal rights under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

**interfere with** includes tamper.

**land** includes land covered by water, and whether by sea or otherwise.

**land access code** see the Common Provisions Act, section 36.

**later development plan requirements** see section 53.

**later work program requirements** see section 25.

**lease** means a petroleum lease granted under this Act.

**legacy borehole** means a bore or well that—

- (a) was drilled for the purpose (the **original purpose**) of—
  - (i) exploration or production of mineral or petroleum resources; or
  - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

**lessee** means the holder of a petroleum lease.

***licensed water bore driller*** means an individual who holds a water bore driller's licence under the Water Act.

***lodge***, a document, has the meaning affected by section 124AA.

***make submissions*** has the meaning affected by section 124AA.

***mandatory condition*** for—

- (a) an authority to prospect, means a condition of the authority imposed under part 6A, division 2 or 4 as a mandatory condition or prescribed under section 90; or
- (b) a lease, means—
  - (i) a condition of the lease imposed under part 6A, division 3 or 4 as a mandatory condition or prescribed under section 90 as a mandatory condition; or
  - (ii) the reservations, conditions and covenants of the lease imposed under section 47.

***mandatory provision***, of the land access code, means a provision of that code that the code requires compliance with.

***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 the holder is authorised to carry out mining or a related mineral or energy resources activity under the Mineral Resources Act.

***mining lease*** see the Mineral Resources Act, schedule 2.

***mining tenement*** means a mining tenement under the Mineral Resources Act.

***natural gas*** means gas consisting primarily of hydrocarbons, and obtained from boreholes or from crude oil.

***natural underground reservoir***—

- 1 A *natural underground reservoir* is a part of a geological formation or structure—
  - (a) in which petroleum has accumulated; or
  - (b) that is suitable to store petroleum.
- 2 A geological formation or structure mentioned in item 1 does not cease to be a *natural underground reservoir* merely because it has been modified for petroleum production or storage.
- 3 In items 1 and 2, a geological formation includes a coal seam.

***noncompliance action*** means action of a type mentioned in section 80T.

***notice*** means a written notice.

***notice of intention to resume***, for the proposed taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or
- (b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

***notifiable road use*** see the Common Provisions Act, section 62.

***occupier***, of a place, means a person—

- (a) who, under an Act or a lease registered under the *Land Title Act 1994*, has a right to occupy the place, other than under a mining interest, 1923 Act petroleum tenure, 2004 Act petroleum authority, GHG authority or geothermal tenure; or

- (b) to whom an owner of the place or another occupier under paragraph (a) has given the right to occupy the place.

**oil shale** see section 76L.

**oil shale exploration tenement** see section 76N(1).

**oil shale mining lease** see section 76N(2).

**on**, land or another place, includes across, attached to, in, under or over the land or place.

**operate**, a pipeline—

- 1 *Operate*, a pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.
- 2 For item 1, using a pipeline includes using it to transport petroleum.

**operating plant** see the 2004 Act, section 670.

**original notional sub-blocks**, of an authority to prospect—

- 1 The *original notional sub-blocks*, of an authority to prospect, are the sub-blocks included in the area of the authority at the following time—
  - (a) if the authority was granted before 31 December 2004—immediately after its first renewal after that day;
  - (b) if the authority was granted on or after 31 December 2004—when it was originally granted.
- 2 However, the *original notional sub-blocks* do not include any sub-block completely within the area of a lease under this Act or a 2004 Act lease.

**overlapping authority (geothermal or GHG)**, for part 6FA, see section 78CB.

**overlapping tenure**, for part 6FA, see section 78CH(b).

**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;
- (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;
- (k) for Aboriginal land under the *Aboriginal Land Act 1991* that is taken to be a reserve because of section 202(2) or (4)(b) of that Act—the trustee of the land;

- (ka) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act—the trustee 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 chief executive of the department in which the NCA is administered—
    - (i) a national park (scientific);
    - (ii) a national park;
    - (iii) a national park (Aboriginal land);
    - (iv) a national park (Torres Strait Islander land);
    - (v) a forest reserve.
- 2 Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or

(b) 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 If land has more than 1 owner, a reference in this Act to its owner of the land is a reference to each of its owners.

*parties*, for part 6R, see section 103B.

*payable*, as applied to petroleum, means petroleum of such quantity and quality that it can under ordinary circumstances be won with profit.

*petroleum* means any—

- (a) naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) naturally occurring mixture of 1 or more hydrocarbons, whether in a gaseous, liquid, or solid state, and 1 or more of the following—
  - (i) hydrogen sulphide;
  - (ii) nitrogen;
  - (iii) helium;
  - (iv) carbon dioxide;

and includes any petroleum defined by paragraphs (a) to (c) that has been returned to a natural reservoir, but does not include, and is hereby declared never did include—

- (d) shale from which mineral oil may be extracted or produced;
- (e) mineral oil extracted or produced from shale or coal or other rock by some chemical or thermal process;
- (f) hydrocarbons and other substances or matter occurring in association with shale or coal and necessarily mined, extracted, produced or released by or in connection with mining for shale or coal or the extraction or production of mineral oil therefrom;

- (g) alginite;
- (h) coal;
- (i) lignite;
- (j) peat;
- (k) shale or other rock from which a gasification or retorting product as defined in the 2004 Act may be extracted or produced;
- (l) torbanite.

***petroleum deposits*** means the petroleum-producing or petroleum-bearing sands or strata.

***petroleum royalty*** means petroleum royalty imposed under the 2004 Act, section 590.

***pipeline*** means the whole or part of a pipe or a system of pipes for conveying petroleum, wherever recovered, and all ancillary equipment and works connected therewith, including flow lines from wells, gathering lines and main lines and installations in connection therewith such as tanks, reservoirs, pumps, racks and loading facilities, structures supporting the line, pump houses, and apparatus to afford protection against corrosion, but does not include flare lines and similar pipelines at wells being drilled for petroleum.

***place*** includes land.

***plan period***, for a development plan, means the period for which the plan applies.

***private land***—

- 1 *Private land* is—
  - (a) freehold land, including Aboriginal land under the *Aboriginal Land Act 1991* and Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*; 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 an interest in any of the following relating to the land—
- (a) a mining interest;
  - (b) a 1923 Act petroleum tenure or 2004 Act petroleum authority;
  - (c) a GHG authority;
  - (d) a geothermal tenure;
  - (e) an occupation right under a permit under the *Land Act 1994*.
- 3 Also, land owned by a public land authority is not private land.

**produced**, for petroleum, means to recover or release it to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.

**program period**, for a work program, means the period for which the program applies.

**provisions** of a 1923 Act petroleum tenure—

- 1 A reference in this Act to a 1923 Act petroleum tenure includes a reference to its provisions.
- 2 A reference in this Act to the provisions of a 1923 Act petroleum tenure is a reference to its mandatory or other conditions and any thing written in it.

**public land** means land other than—

- (a) private land; or
- (b) to the extent an interest in any of the following relates to the land—
  - (i) a mining interest;
  - (ii) a 1923 Act petroleum tenure or 2004 Act petroleum authority;
  - (iii) a GHG authority;
  - (iv) a geothermal tenure;

- 
- (v) 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
- (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.

**recipient**, for part 6F, see section 78A(1).

**register** means the register kept by the chief executive under the Common Provisions Act, section 197.

**relevant environmental authority**, for a 1923 Act petroleum tenure or water monitoring authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the tenure or authority that

are environmentally relevant activities under the Environmental Protection Act.

**relevant owner or occupier**, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

**relinquishment condition**—

- 1 Generally, the *relinquishment condition*, for an authority to prospect is the relinquishment condition under section 74A(1).
- 2 However if part 10, division 2 applies and the authority is an authority to which section 173 or 174 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.

**remedial powers** see section 80L(2).

**report** means a written report.

**required information**, for part 6E, division 3, see section 76C.

**resumption law**—

- (a) means a law that provides for the compulsory acquisition of land, including, for example, the following—
  - (i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

*Examples of other laws for subparagraph (i)*—

    - *Electricity Act 1994*, section 116
    - *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY
  - (ii) the *Land Act 1994*, chapter 5, part 3, division 3;
  - (iii) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 456 to 458;

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- (iv) the *Queensland Reconstruction Authority Act 2011*, section 99;
  - (v) the *State Development and Public Works Organisation Act 1971*, section 82 or 125;
  - (vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but
- (b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

**resumption notice**, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or
- (b) otherwise—the instrument giving effect to the taking.

**safety management system** see the 2004 Act, schedule 2.

**security** includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

**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).

**share**, of a 1923 Act petroleum tenure, means any interest held by a person as a holder of the tenure in all of the area of the tenure.

**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.

**State-controlled road** see *Transport Infrastructure Act 1994*, schedule 6.

**structure** means anything built or constructed, whether or not attached to land.

**sub-block** means the land, identified in the way approved by the chief executive, resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians of longitude 1 minute apart and 2 parallels of latitude 1 minute apart.

**sublease**, for a lease over land covered by a coordination arrangement, means a sublease of all or part of—

- (a) the leased land; or
- (b) petroleum produced under the lease.

**submission** means a written submission.

**take**, in relation to land, includes acquire.

**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.

**transfer**, of a well, water observation bore or water supply bore, see section 75N(2).

**transitional notional sub-blocks**, of an authority to prospect, see section 172.

**unallocated State land** has the same meaning as in the *Land Act 1994*.

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***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 obligations***, of a petroleum tenure holder, means—

- (a) the holder's underground water obligations under the Water Act, chapter 3; and
- (b) any other obligation under the Water Act, chapter 3 with which the holder is required to comply, if failure to comply with the obligation is an offence against that Act.

*Examples of another obligation under the Water Act, chapter 3 with which the holder may be required to comply—*

- giving an underground water impact report under section 370 of that Act
- preparing and complying with a baseline assessment plan under sections 397 and 400 of that Act

***usual relinquishment*** see section 74C(3).

***Water Act*** means the *Water Act 2000*.

***Water Act regulator*** means the chief executive of the department that administers the Water Act.

***water monitoring activity*** see section 87.

***water monitoring authority*** means an authority granted under section 75WC.

***water observation bore***—

- 1 A *water observation bore* is a bore to monitor water levels and includes—
  - (a) a well that, under part 6D, division 2, has been, or is taken to have been, converted to a water observation bore; and
  - (b) a water monitoring bore under the Water Act.
- 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 bore drilled under section 86 with the permission of the Minister; or
- (b) a well that, under part 6D, division 2, has been, or is taken to have been, converted to a water supply bore.

***well***—

- 1 A *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 into a natural underground reservoir; or
  - (c) through which petroleum may be produced.
- 2 A *well* includes the casing for the well and any wellhead for the well attached to it.
- 3 To remove any doubt, it is declared that a *well* does not include any of the following—
  - (a) a water observation bore;
  - (b) a water supply bore;
  - (c) a water bore to which the Water Act, chapter 3 applies;
  - (d) a seismic shot hole or shallow hole drilled to work out a geological structure.

***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, means—

- (a) its work program as approved under section 151; or
- (b) its conditions about expenditure or work that, under section 155, are taken to be a later work program for the authority; or

- 
- (c) its later work program approved under part 4, division 2, as amended from time to time under that division.

*Notes—*

- 1 For an authority being taken to have a work program until a decision has been made on whether to approve a proposed work program, see section 25D.
- 2 For the continuing effect of an authority on a renewal application, see section 25N.
- 3 For conditions of an authority to prospect about expenditure or work becoming its work program, see section 155.

### 3 Relationship with Mineral Resources Act

- (1) This section does not apply to a coal or oil shale mining tenement.

*Notes—*

- 1 For provisions for coal seam gas, see part 6F.
  - 2 For the relationship between the Mineral Resources Act and the 2004 Act, see the Mineral Resources Act, section 3A.
- (2) Subject to subsections (3) to (6), the Mineral Resources Act does not limit or otherwise affect—
- (a) the power under this Act to grant or renew a lease or renew an authority to prospect over land (the ***overlapping land***) in the area of a mining tenement under the Mineral Resources Act; or
  - (b) a lease or authority to prospect already granted under this Act over land (also the ***overlapping land***) in the area of an existing mining tenement.
- (3) If the mining tenement is a mining lease (other than a transportation mining lease), an authorised activity for the authority to prospect or lease under this Act 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; and

*Note—*

For other relevant provisions about lodging documents, see part 9, division 1A.

- (c) the agreement is still in force.
- (4) If the mining tenement is an exploration permit, mineral development licence or transportation mining lease, an authorised activity for the authority to prospect 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 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.
- (5) If the mining tenement is an exploration permit or a mineral development licence and the overlapping land is in the area of the lease under this Act, an authorised activity for the mining tenement may be carried out on the overlapping land only if—
  - (a) the lessee has agreed in writing to the carrying out of the activity; and
  - (b) a copy of the agreement has been lodged; and
  - (c) the agreement is still in force.
- (6) In this section—

*transportation mining lease* means a mining lease granted under the Mineral Resources Act, section 316.

#### **4 Relationship with Nature Conservation Act 1992**

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

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**4A Relationship with Geothermal Act and Greenhouse Gas Storage Act 2009**

The relationship between this Act, the *Geothermal Energy Act 2010* (the ***Geothermal Act***) and the *Greenhouse Gas Storage Act 2009* (the ***GHG storage Act***) and authorities under them is provided for under—

- (a) section 40(1A) and part 6FA; and
- (b) the Geothermal Act, chapter 5; and
- (c) the GHG storage Act, chapter 4.

**4B Relationship with Common Provisions Act**

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

**5 Declaration for Commonwealth Act**

A 1923 Act petroleum tenure is declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth).

**7 Application of Act**

- (2) To the extent necessary to give operation and effect to the provisions of the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates, and to ensure that no provision of this Act shall affect or prejudice in any way that Act or that agreement, it is hereby declared that every provision of this Act shall be read subject to the *Amoco Australia Pty. Limited Agreement Act 1961*, and the agreement to which that Act relates.
- (3) If there is an inconsistency between a provision of this Act and the *National Gas (Queensland) Law*, the Law prevails to the extent of the inconsistency.

## **7A Act applies out to coastal waters of the State**

This Act applies to land and land covered by water that is seaward of the coastline of the State at mean low water and landward of the inner limit of the territorial sea of Australia.

## **7AA Qualification of 1923 Act petroleum tenure holders**

The following persons shall be qualified to apply for and hold a 1923 Act petroleum tenure, namely—

- (a) any natural person;
- (b) a company or registered body under the Corporations Act;
- (ba) any government owned corporation;
- (c) any lawful association of the abovementioned persons.

# **Part 3 Rights and powers of the Crown**

## **9 Petroleum the property of the Crown**

Notwithstanding anything to the contrary contained in any Act or in any grant, instrument of title, or other document, it is hereby declared that petroleum on or below the surface of all land in Queensland, whether alienated in fee simple or not so alienated from the Crown, and if so alienated whensoever alienated, is and always has been the property of the Crown.

## **10 Reservations in grants**

All grants, leases, licences, and other instruments of tenure under any Act relating to unallocated State land, other than leases under this Act, issued after the passing of this Act shall contain a reservation of all petroleum on or below the surface of the land comprised therein, and also a reservation of all rights of access for the purpose of searching for and for the

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operations of obtaining petroleum in any part of the land, and all rights of way for access and for pipelines and other purposes requisite for obtaining and conveying petroleum in the event of petroleum being obtained in any part of the land.

## **Part 4                      Authorities to prospect**

### **Division 1                      General provisions**

#### **18                      Authority to prospect**

- (2) The area to be held under an authority to prospect, the terms, rent, and the conditions, provisions, and stipulations as to labour and other matters shall be fixed by the Minister.
- (3) Failure to comply with any conditions, provisions, and stipulations so fixed shall render the authority liable to be cancelled by the Minister.
- (4) Such authority shall entitle the holder, upon payment in advance of the rent fixed as aforesaid, and survey fee if necessary—
  - (a) to undertake exploration or prospecting, or geological or geological and geophysical investigation or testing, of favourable geological structures; or
  - (b) to plug and abandon, or otherwise remediate, a bore or well the holder reasonably believes is a legacy borehole and rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation; or
  - (c) generally to do all things in respect of the search for and discovery of petroleum or for the due development of the industry during the term of such authority.

*Note—*

The carrying out of particular activities on particular land in an authority to prospect's area may not be authorised following the taking of the land under a resumption law. See section 124B.

- (5) However, the holder can not carry out GHG stream storage.
- (7) The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

**18A Minister's power to decide excluded land for authority to prospect**

- (1) The Minister may decide excluded land for an authority to prospect.
- (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) Also, excluded land—
  - (a) must be within any sub-block included in the area of the authority; and
  - (b) can not be—
    - (i) a whole block; or
    - (ii) land in the area of another 1923 Act petroleum tenure.
- (4) For subsection (3)(a), if the register—
  - (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 in the register is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 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 lease under this Act or a 2004 Act lease is granted over any of the area of the authority and the land is excluded land for the lease.

## **20 Area of authority to prospect reduced on grant of lease**

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

*Note—*

See also section 124B in relation to the exclusion of land from an authority to prospect's area following the taking of the land under a resumption law.

## **21 Surrender of authority to prospect**

- (1) The holder of an authority to prospect may, with the Minister's approval, at any time surrender the holder's interest in an authority to prospect or any part of the land comprising the authority to prospect but a surrender in respect of part of the land comprising an authority to prospect may only be surrendered if that part can be identified from the land comprising the balance of the authority to prospect by the same or similar means whereby the land comprising the authority to prospect is described and identified by the authority to prospect.
  - (1A) However, the Minister's approval is not required if the surrender is the surrender of a part of the area of the authority

that overlaps with the area of a lease under this Act or a 2004 Act lease.

- (2) Where an authority to prospect is surrendered in respect of part only of the land comprising the authority to prospect, the authority to prospect is to be amended by excising that part and otherwise as may be required to conform with this Act and the authority to prospect continues in respect of the balance of the area.
- (3) In the case of a surrender of an authority to prospect (in whole or in part) all adjustments between the Crown and the holder in respect of the payment of rental, fees or other moneys are at the discretion of the Minister who, for this purpose, may demand of the holder such sums as the Minister specifies and recover the same by action as a debt due to the Crown.
- (4) The holder may obtain the approval only by an application—
  - (a) made in the approved form; and
  - (b) accompanied by—
    - (i) the fee prescribed under a regulation; and
    - (ii) a report by the applicant about authorised activities for the authority carried out on the area the subject of the application, and the results of the activities.

## **24 Miscellaneous rights**

The holder of an authority to prospect shall have the right—

- (b) to cut and use any timber on such land for building or construction works or firewood or other necessary purposes; and
- (c) to depasture on such land all stock used in connection with the holder's prospecting and mining operation;

subject, however, to any conditions prescribed with respect to payment for water, timber, or agistment in cases where the making of such payment is deemed necessary.

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## Division 2                      Work programs

### Subdivision 1                  Requirements for proposed later work programs

#### 25                      Operation of sdiv 1

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

*Note—*

For initial work programs—

- (a) in relation to unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given, see section 151; and
- (b) in relation to conditions of an authority to prospect about expenditure or work becoming its work program, see section 155.

#### 25A                      General requirements

- (1) The proposed program must include each of the following—
  - (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, a statement about—
    - (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 25E(2);
  - (e) reasons that the program is considered appropriate;
  - (f) a statement about the extent to which the current work program for the authority to prospect has been complied with;
  - (g) if there have been any amendments to the authority or its current work program, a statement about—
    - (i) whether the changes have been incorporated in the proposed program; and
    - (ii) any effect the changes have on the proposed program;
  - (h) a statement about the effect of any petroleum discovery on the proposed program;
  - (i) another matter prescribed under a regulation.
- (2) A regulation may impose requirements about the form in which the matters mentioned in subsection (1) must be given.
- (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.

## **25B 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
  - (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.

## **Subdivision 2      Approval of proposed later work programs**

### **25C      Application of sdiv 2**

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

*Notes—*

- 1 For the requirement to include a proposed later work program with an application to renew an authority to prospect, see section 25M(1)(d).
- 2 For the obligation to lodge a proposed later work program, see section 74K.
- 3 For the types of noncompliance action that may be taken, see section 80T.

### **25CA      Modified application of pt 9, div 1**

Part 9, division 1 applies in relation to the lodgement by an authority to prospect holder of a proposed later work program as if—

- (a) the lodgement of the proposed program were the making of an application by the holder; and

- (b) the later work program requirements for the proposed program were the requirements under part 9, division 1 for making the application.

## **25D 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 authority to prospect holder is given notice of the approval; or
  - (b) if approval of the proposed program is refused—when the refusal takes effect.

*Note—*

For when the decision takes effect, see section 25F.

- (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.

## **25E 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 appropriateness of the proposed program, having regard to—
    - (i) the potential of the area of the authority to prospect for petroleum discovery; and
    - (ii) the extent and nature of the proposed petroleum exploration;

*Examples—*

- proposed geological, geophysical or geochemical surveying
  - the number of wells the authority to prospect holder proposes to drill, and their type
- (iii) when and where the authority to prospect holder proposes to carry out the exploration;
- (b) the capability criteria;
- (c) the extent to which the current work program has been complied with;
- (d) any amendments made to the authority or its current work program, and the reasons for the changes;
- (e) any commercial viability report or independent viability assessment for the authority.

**25F 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.

*Notes—*

- 1 For the period to appeal, see section 105.
- 2 For when the Land Court may grant a stay of the decision, see section 107.

## Subdivision 3 Amending work programs

### 25G 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; 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;
  - (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*) become a holder of the authority; or
    - (ii) a person (also the *designated person*) applied for approval of a transfer of a share in the authority and the transfer has, under the Common Provisions Act, been approved for registration under that Act;
  - (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, an entity connected with another person who is a holder of the authority.
- (3) In this section—
  - initial work program* means—
    - (a) a work program approved under section 151; or
    - (b) conditions about expenditure or work that, under section 155, are taken to be the work program for the authority.

## 25H Applying for approval to amend

- (1) An authority to prospect holder may apply for approval to amend the work program for the authority.

*Note—*

For other relevant provisions about applications, see part 9, divisions 1 and 1A.

- (2) However, the application can not be made less than 20 business days before the end of the period stated in the plan for carrying out work under the existing work program.
- (3) The application must be accompanied by the fee prescribed under a regulation.

## 25J Deciding application

- (1) If the proposed amendment—
  - (a) does not relate to the work program for the authority to prospect provided for under section 155; 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 25G(2) have been complied with; and
  - (b) the designated person mentioned in section 25G(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 74A(1)(c) and 74J.

- (3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
- (a) not related to—
    - (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 (2), 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 may be imposed on the authority requiring its holder to relinquish, by a lodged notice, at least a stated percentage of the original notional sub-blocks of the authority on or before a stated day.

### **25K 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 3 Renewals**

### **25L 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 74W for nonpayment of annual rent;
  - (c) interest payable under section 102 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 78E.
- (2) Also the application can not be made—

- (a) if any of the following provides that the authority is to be replaced under another Act—
  - (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);
  - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act; or

*Note—*

For the right to apply for a petroleum tenure, see the 2004 Act, section 908.

- (b) if section 173 applies and the relinquishment condition under that section has not been complied with; or
- (c) if a part of the area of the authority overlaps with the area of a lease under this Act or a 2004 Act lease, other than a 2004 Act lease granted under the 2004 Act, chapter 3, part 2, division 2 or part 3, division 3; or
- (d) more than 60 business days before the end of the term of the authority; or
- (e) after the authority has ended.

## **25M Requirements for making application**

- (1) The application must—
  - (a) be in the approved form; and
  - (b) state whether or not the work program for the authority to prospect has been complied with; and
  - (c) if the work program has not been complied with—state details of, and the reasons for, each noncompliance; and
  - (d) include a proposed later work program for the renewed authority; and
  - (e) address the capability criteria; and
  - (f) include information about the matters that, under sections 25O and 25R, must or may be considered in deciding the application; and

- 
- (g) state whether or not the applicant has complied with part 6E, for reports required to be lodged in relation to the authority; and
  - (h) 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.
- (2) The proposed work program must comply with the later work program requirements.

*Notes—*

- 1 For the requirements for proposed later work programs, see division 2, subdivision 1.
  - 2 For the approval of proposed later work programs, see division 2, subdivision 2.
- (3) An authority to prospect holder can not apply to renew the authority if section 173 applies and the relinquishment condition under that section has not been complied with.
- (4) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 2004 Act lease, the application is invalid.

## **25N 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;
  - (c) the application is withdrawn;
  - (d) the authority is cancelled under this Act.

*Note—*

For the authority being taken to have a work program until a decision has been made on whether to approve a proposed work program, see section 25D.

- (3) If the authority is renewed, subsection (2) is taken never to have applied for the period from the end of the term of the authority being renewed, as stated in that authority.

## **250 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 work program for the renewed authority to prospect; and

*Note—*

For the approval of proposed later work programs, see division 2, subdivision 2.

- (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 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) 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 security for the renewed authority, as required under section 78E.

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

## **25P Term and area of renewed authority**

- (1) Each renewed authority to prospect must state its term and area.
- (2) The term can not—
  - (a) end after—
    - (i) 1 November 2021; or
    - (ii) 12 years from when the renewed authority to prospect takes effect under section 25Q.
  - (b) be longer than the term of the authority that immediately preceded the renewed term.
- (3) Subsection (2)(b) applies despite—
  - (a) whether the authority to prospect has previously been renewed; and
  - (b) any previous renewal of the authority.
- (4) The area can not be more than the area of the authority to prospect being renewed immediately before the renewed authority is to take effect.

## **25Q Other provisions and taking effect of renewed authority**

- (1) A renewed authority to prospect may state—
  - (a) conditions or other provisions of the renewed 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 renewed authority; and
  - (b) relinquishment days for the renewed authority.

- (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 provisions of the renewed authority may exclude or restrict the carrying out of an authorised activity for the renewed authority.
- (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 relinquishment days are not stated, its relinquishment days are taken to be—
  - (a) the day that is the fourth anniversary of the day the renewed authority starts under subsection (6) or (7); and
  - (b) each day during its term that is a 4 yearly interval after that day.
- (6) 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.
- (7) 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.

## **25R Criteria for decisions**

- (1) The matters that must be considered in deciding whether to grant the renewal or deciding the provisions of the renewed authority include—
  - (a) the matters mentioned in section 25E(2); and

(b) whether the applicant continues to satisfy the capability criteria.

(2) In this section—

*satisfies*, the capability criteria, means the Minister continues to have the opinion mentioned in the definition of capability criteria in section 2 about the holder of the authority to prospect being renewed.

### **25S Information notice about refusal**

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

### **25T When refusal takes effect**

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

*Notes—*

- 1 For the period to appeal, see section 105.
- 2 For when the Land Court may grant a stay of the decision, see section 107.

## **Division 4 Expiry of part**

### **25U Expiry of pt 4 and ending of authorities to prospect**

- (1) This part expires on 1 November 2021.
- (2) All authorities to prospect still in force immediately before 1 November 2021 expire on that day.

## **Part 6 Provisions relating to leases**

### **Division 1 General provisions for leases**

#### **40 Lease to holder of authority to prospect**

- (1) Subject to subsection (5), a holder of an authority to prospect may, by signed writing, apply to the Minister for the grant to the applicant, or to the applicant and other qualified persons nominated by the applicant, of a lease or leases of such area of land as is reasonably required to develop and produce payable deposits of petroleum within the land the subject of the authority to prospect.
- (1A) The right to apply under subsection (1) applies only to the extent that the area of the proposed lease is not in the area of a coal or oil shale mining tenement, a GHG authority or a geothermal tenure.

*Note—*

For the transition, by application, from an authority to prospect under this Act to a petroleum lease under this Act, see the 2004 Act, chapter 15, part 3, division 4.

- (2) If the applicant and any other persons nominated by the applicant are qualified persons and the applicant—
  - (a) declares that deposits of petroleum that the applicant believes on reasonable grounds to be payable have been discovered within the land the subject of the application; and
  - (b) lodges with the Minister a proposed program for developing and producing petroleum from any field within the land;the applicant is entitled to have a lease granted to the applicant and the other persons (if any) nominated by the applicant.
- (3) On compliance with subsection (2), the relevant land is taken, for the purposes of subsection (1), to contain payable deposits of petroleum capable of development and production.

- (4) A lease is to be granted by the Minister.
- (4A) The lease can not have a term of more than 30 years.
- (5) The lands in respect of which a lease is granted under subsection (4)—
  - (a) shall not exceed 260km<sup>2</sup> in area; and
  - (b) unless otherwise approved by the Minister shall be bounded by boundaries which are a rectilinear figure the sides whereof (which may be of any number) are formed by parts of meridians of longitude and by chords, each subtending a minute of arc, of parallels of latitude and described by whole minutes of latitude and longitude; and
  - (c) shall be described and marked on a plan in such manner that they can be readily identified.
- (6) The Minister may, if in the Minister's opinion the special circumstances of the particular case render it necessary or desirable so to do, approve that lands which are not contiguous may be included in one lease.
- (6A) However, the approval mentioned in subsection (6) is not required if the land in the authority to prospect's area is not contiguous only because of the exclusion of acquired land from the area.
- (7) The applicant for the lease shall, when and as required by the Minister, and may at the applicant's option (but in either case at the applicant's own expense) survey and mark upon the ground, in accordance with the relevant regulations, all or any portion of the boundaries of the lease.
- (8) When such survey and marking is accepted as correct by the Minister, the boundaries or portion of the boundaries as so marked shall be the boundaries or, as the case may be, that portion of the boundaries of the lease.
- (9) This section expires on 1 November 2021.

**40A Continuing effect, for s 40 application, of authority to prospect and its work program**

- (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 an application under section 40 is granted.
- (2) The authority continues in force in relation to the area the subject of the application until the earlier of the following—
  - (a) the start of the term of the lease the subject of the application;
  - (b) the application is withdrawn.
- (3) While the authority continues in force under subsection (2), and despite any ending of the program period for its work program—
  - (a) the authority is taken to have a work program; and
  - (b) its holder may carry out any authorised activity for the authority.

**40B Minister's power to decide excluded land for lease**

- (1) The Minister may, at any time, decide excluded land for a lease or a lease proposed to be granted under section 40.
- (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 included in the area of the lease; and
  - (b) can not be a whole sub-block.
- (4) For subsection (3)(a), if the register—
  - (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 in the register is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another 1923 Act petroleum tenure or a 2004 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 lease if, for any reason, the sub-block in which the land is located ceases to be in the area of the lease.

#### **44 Form etc. of lease**

- (1) Every lease shall—
- (a) confer upon the lessee—
- (i) the exclusive right to prospect for, mine, extract, recover, remove, and dispose of all petroleum in or under the land demised, with the right to construct and maintain thereon all works buildings plant waterways (including any pipelines for conveying water) roads pipelines reservoirs tanks pumping stations and other structures necessary to the full enjoyment thereof; and
- (ii) the right to plug and abandon, or otherwise remediate, a bore or well the lessee reasonably believes is a legacy borehole and rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation; and
- (b) be for a term no longer than the period nominated (with reasons for the nomination) by the applicant as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease; and

- (c) be subject to the mandatory conditions for leases and any conditions decided by the Minister.

*Note—*

The carrying out of particular activities on particular land in a lease's area may not be authorised following the taking of the land under a resumption law. See section 124B.

- (2) Despite subsection (1)(b), the holder can not carry out GHG stream storage.

## **45 Entitlement to renewal of lease**

(1AA) This section does not apply to a lease that ends after 1 November 2021.

- (1) The lessee of a lease who has substantially complied with this Act and the 2004 Act, chapter 6, and the terms and conditions of the lease, in relation to that lease, at the expiration of the lease, is entitled, subject to subsection (2), to a renewal of the lease by the Minister.

(1A) However, subsection (1) only applies if—

- (a) the lease is a lease that has any number as follows—
  - (i) 1 to 18, inclusive;
  - (ii) 21 to 93, inclusive;
  - (iii) 98;
  - (iv) 101;
  - (v) 115 to 117, inclusive;
  - (vi) 204; or
- (b) the lease is prescribed under a regulation notified before 31 December 2004; or
- (c) the lease is not a lease mentioned in paragraph (a) or (b) and, before 31 December 2004, a notice under the Commonwealth Native Title Act, section 29, was given for the renewal; or

- 
- (d) a following agreement, whether made before or after the commencement of this paragraph, provides for the renewal of the lease under this Act and the negotiations for the agreement started before the 2004 Act start day—
- (i) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);
  - (ii) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.

*Note—*

For the right to apply for a petroleum tenure, see the 2004 Act, section 908.

- (2) A lessee referred to in subsection (1), before the expiration of the lease, is to by an application—
- (a) declare whether deposits of petroleum, that the lessee believes on reasonable grounds to be payable, exist within the land the subject of the lease; and
  - (b) state whether or not the development plan for the lease has been complied with; and

*Note—*

For the program for development and production for a lease becoming its development plan, see section 156.

- (c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance.
- (2A) The application must—
- (a) be in the approved form; and
  - (b) include a proposed later development plan for the renewed lease; and
  - (c) 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.
- (2B) The proposed plan must comply with the later development plan requirements.
- (3) The renewed lease must be for a term no longer than the period nominated (with reasons for the nomination) by the lessee as an appropriate term for producing in an economically viable way the petroleum from the fields within the land the subject of the lease.
- (4) The law relating to the amount and payment of royalties and of rent in force at the time of renewal applies to the renewed lease.

#### **46 Annual rent**

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

#### **46A Application of GST to rents**

- (1) If rent payable under section 46 for a lease is for a supply for which GST is payable, the rent payable from the relevant day for the lease is the total of—
  - (a) the rent that would have been payable if the rent were not for a supply for which GST is payable; and
  - (b) 10% of the rent that would have been payable if the rent were not for a supply for which GST is payable.
- (2) In this section—  
*relevant day*, for a lease, means—
  - (a) for a lease granted before 8 July 1999—1 July 2005; or
  - (b) for a lease granted on or after 8 July 1999—25 August 2000.

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## **47 Reservations, conditions and covenants of lease**

- (1) Every lease is subject to the following reservations, covenants and conditions—
- (a) a reservation of power to authorise mining on the land for any purpose other than the production or obtaining of petroleum or petroleum products, but not such as to interfere with, encroach upon, or endanger operations for producing or obtaining petroleum;
  - (b) a covenant by the lessee to pay the prescribed rent in accordance with this Act;
  - (c) a covenant by the lessee to pay the State petroleum royalty, as required under the 2004 Act, chapter 6;
  - (d) a covenant by the lessee to work the land demised by the lease in accordance with recognised good oilfield practice and in compliance with this Act, unless exemption or partial exemption is granted in such manner as may be prescribed;
  - (e) a covenant by the lessee that, if directed by the Minister not to dispose of any petroleum or petroleum products for use or consumption outside Australia, the lessee will not so dispose of any petroleum or petroleum products;
  - (f) a covenant by the lessee to comply with the provisions of this Act;
  - (g) a covenant by the lessee to use the land bona fide exclusively for the purpose for which it is demised and in accordance with this Act, unless prevented from so doing by circumstances beyond the lessee's power and control;
  - (h) a covenant by the lessee not to assign, transfer, sublet, mortgage or make the subject of any trust the lease or the land or any part thereof otherwise than in accordance with this Act or the Common Provisions Act;
  - (i) a condition for the forfeiture of the lease in the event of any breach of any covenant or condition by the lessee and the failure of the lessee completely to remedy the

same within 3 months (or such further time as the Minister may in the Minister's discretion, allow) after the Minister shall have given to the lessee notice in writing to make good the same.

- (2) If an application for a lease has been granted, the applicant and the applicant's assigns are taken to have entered into the covenants and accepted the reservations and conditions mentioned in subsection (1).

#### **48 Commencement of drilling**

- (1) The lessee shall each year expend on the lease in respect of drilling for petroleum or such other work as the Minister may in writing approve a total sum of money calculated at the rate of \$1550 per square kilometre for each square kilometre or part thereof contained in the lease.
- (2) The total sum is to be reduced by the value at the wellhead, as agreed or determined under section 49, of all petroleum produced from the lease in the year.
- (3) Subsections (1) and (2) are complied with in relation to each of the leases that are the subject of a unitisation arrangement if those subsections are complied with in relation to the leases taken as a whole.
- (4) The Minister may grant exemption in writing from the requirements of subsection (1) for such period and under such conditions as the Minister may fix.
- (5) If a conservation authority appointed under this Act restricts production from the lease then the value at the wellhead mentioned in subsection (2) shall be determined on production that, in the opinion of the conservation authority, reasonably could have been expected from the lease had production not been so restricted.
- (6) The lessee shall drill all necessary wells fairly to offset the wells of others on adjoining land on petroleum deposits.

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**49      Ascertainment of value**

For section 48(2), the value at the wellhead of any petroleum is such amount as is agreed between the Minister and the person who produces the petroleum or, failing such agreement within a period allowed by the Minister (either generally or in a particular case) as is determined by the Minister as being that value.

**51      Use and occupation of mining area on private or improved land**

- (1) With respect to the use and occupation by a lessee of any of the land demised, every lessee shall—
- (a) as against the owner or occupier only of any such land, but not otherwise, be and be deemed to be in occupation of only such area of such land as the lessee from time to time requires for effectively carrying on and adequately protecting all the mining operations and the storing, refining, transporting, and communication works in connection with all the lessee's mining operations carried on or to be carried on from time to time or at any time during the term of the lease or any extension thereof, together with all rights and easements incidental to such occupation;
  - (b) during such time have the right personally or by agents or workers, to cut and use any timber on any such land for building purposes, construction works, firewood, or other necessary purposes; and may depasture on such land all stock used in connection with all such mining or other operations or used by workers or employees of such lessee; subject however to any conditions prescribed with respect to payment for water timber or agistment in cases where the making of such payment is deemed necessary;
  - (c) cause to be surveyed and securely fenced each surface area on any such land which the lessee requires so as to effectively carry on and adequately protect the lessee's mining operations and works.

(2) However, subsection (1)(c) shall not apply in relation to any unallocated State land except in so far as the Minister, in relation to any such land contained in a lease, by notice in writing to the lessee concerned, so directs.

(3) In this section—

*occupier* means the person in actual occupation of any private land or improved land, or, if there is no person in actual occupation, the person entitled to possession thereof.

## 52 Surrender and determination of lease

(1) The lessee may, with the consent of the Minister in writing, surrender and terminate the lease upon the payment of all rents royalties and other obligations due and payable to the Crown and upon payment of all wages and moneys due and payable to the workers employed by the lessee and upon proof satisfactory to the Minister that the public interest will not be impaired, but in no case shall such surrender be effective until the lessee has made full provision for conservation and protection of the property.

(1A) The consent may be given only on the application of the lessee.

(1B) The application must be—

(a) in the approved form; and

(b) be accompanied by—

(i) the fee prescribed under a regulation; and

(ii) a report by the applicant about the activities carried out on the area the subject of the application, and the results of the activities.

*Note—*

For the later grant of a petroleum tenure under the 2004 Act replacing an equivalent petroleum tenure under this Act, see the 2004 Act, chapter 15, part 3, division 7.

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- (2) Upon the acceptance of such surrender by the Minister the lessee shall be relieved of all future obligations under the lease.
  - (3) The lessee may with the like consent surrender to the Crown any legal subdivision of the area comprised within the lease.

## **52A Application of 2004 Act provisions about coextensive natural underground reservoirs**

The 2004 Act, chapter 2, part 2, division 1, subdivision 2 applies to a lease as if a reference in the subdivision to a petroleum lease were a reference to a lease under this Act.

*Note—*

For the deferral of section 52A for existing leases, see section 168.

## **Division 2 Development plans**

### **Subdivision 1 Requirements for proposed later development plans**

#### **53 Operation of sdiv 1**

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

*Notes—*

- 1 For the granting of a lease to the holder of an authority to prospect, see section 40.
- 2 For the entitlement to a renewal of the lease, see section 45.
- 3 For the obligation to lodge a proposed later development plan, see section 74Q.
- 4 For the types of noncompliance action that may be taken, see section 80T.

### **53A 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;
    - (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 paragraph (b)(i) and (ii) and (c)(i);
  - (e) any other information relevant to the development plan criteria;
  - (f) reasons that the plan is considered appropriate;
  - (g) another matter prescribed under a regulation.
- (2) Also, the proposed plan must—

- (a) highlight any significant changes from the current development plan for the lease; and
  - (b) if the current development plan for the lease has not been complied with—state the details of, and the reasons for, each noncompliance.
- (3) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan, the proposed plan must also state reasons for the change.
- (4) 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.
- (5) A regulation may impose requirements about the form of the proposed plan.
- (6) 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.

### **53B Plan period**

- (1) The proposed plan must state its period.
- (2) The period must not be longer than—

[s 53C]

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- (a) if the remaining term, or the renewed term, of the lease is less than 5 years—the term of the lease; or
- (b) if the remaining term, or the renewed term, of the lease is 5 years or more—5 years from the start of the term or renewed term.

## **Subdivision 2      Approval of proposed later development plans**

### **53C      Application of sdiv 2**

This subdivision applies if under this Act, a proposed later development plan is lodged for approval.

*Note—*

For the obligation to lodge a proposed later development plan, see section 74Q.

### **53D      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.

*Note—*

For when the decision takes effect, see section 53G.

- (2) Despite the ending of the plan period for the current development plan for the lease—
  - (a) the lease is taken to have a development plan; and
  - (b) the holder may carry out any authorised activity for the lease.

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### **53E 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 potential of the area of the lease for petroleum production and related activities;
  - (b) the nature and extent of the activities;
  - (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;
  - (e) the extent to which the current development plan for the lease has been complied with;
  - (f) 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 lessee has taken all reasonable steps to prevent the cessation or reduction.

### **53F 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 lessee relinquishes, by a lodged notice, a stated part or percentage of the area of the lease on or before a stated day; 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 lodged notice, 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.

### **53G 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 53F, to make a deferral decision or impose a condition.
- (4) A refusal does not takes effect until the end the appeal period for the decision to refuse.

*Notes—*

- 1 For the period to appeal, see section 105.
- 2 For when the Land Court may grant a stay of the decision, see section 107.

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## Division 3                      Miscellaneous provisions

### 61            Obstruction of 1923 Act petroleum tenure holder

- (1) A person must not, without reasonable excuse, obstruct a 1923 Act petroleum tenure holder from—
  - (a) entering or crossing land to carry out an authorised activity for the tenure if chapter 3, part 2 or 3 of the Common Provisions Act, to the extent it is relevant, has been complied with in relation to the entry; or
  - (b) carrying out an authorised activity for the tenure on the land.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed a 1923 Act petroleum tenure 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 or resist and attempt or threaten to assault, hinder or resist.

### 65            Reservations in favour of State

- (1) Each lease or authority to prospect is subject to a reservation to the State of the right to grant the easements or rights of way, over land covered by the lease or authority, the Minister considers desirable for—
  - (a) developing or working the land or other land containing petroleum deposits; or
  - (b) treating and transporting petroleum deposits by or for the Government, or a lessee or authority holder; or

- (c) another public purpose associated with a purpose mentioned in paragraph (a) or (b).
- (2) Easements and rights of way under this section may be granted for joint or several use.

### **73 Recovery of amounts payable to the State**

- (1) An amount payable to the State under this Act may be recovered as a debt in a court having jurisdiction up to the amount of the debt.
- (2) The starting of a proceeding to recover an amount owing to the State does not limit the right of the State to recover another amount that may become payable under this Act because the failure continues.
- (3) If the State starts a proceeding to recover part only of an amount payable at a particular time, the State is taken to have abandoned the remainder of the amount payable at the time.

## **Part 6A Key mandatory conditions and related provisions**

### **Division 1 Preliminary**

#### **74 Operation of div 1**

This division provides for the key mandatory conditions for 1923 Act petroleum tenures.

*Notes—*

- 1 Parts 4, 6, 6B to 6K and 10 also impose mandatory conditions on 1923 Act petroleum tenures.
- 2 For what is a ‘mandatory condition’, see the definition of that term in section 2.

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## Division 2                      **Specific mandatory conditions for authorities to prospect and related provisions**

### Subdivision 1                **Standard relinquishment condition and related provisions**

*Note—*

For an authority to prospect in force immediately before 31 December 2004, see part 10, division 2.

#### **74A      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 74E(3) applies—on the day provided for under that subsection; and
  - (c) if, under part 4, division 2, subdivision 3, 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 25J(4), 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—

[s 74B]

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- (a) must be made by lodged notice (the *relinquishment notice*); and
  - (b) takes effect on the day after lodgement 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.

#### **74B Consequence of failure to comply with relinquishment condition**

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

#### **74C Part usually required to be relinquished**

- (1) This section is subject to section 74E.
- (2) The relinquishment for each relinquishment day, and any other day mentioned in section 74A(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*.

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**74D Sub-blocks that can not be counted towards relinquishment**

- (1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—
  - (a) sub-blocks relinquished under a condition imposed under section 25J(6);
  - (b) sub-blocks in an area that, under section 20, has ceased to be included in the area of an authority to prospect;
  - (c) sub-blocks the subject of a lease application or an application for a 2004 Act lease;
  - (d) sub-blocks relinquished under a penalty relinquishment.
- (2) In this section—

*penalty relinquishment* means a relinquishment that is—

  - (a) made under section 74J or under a requirement under section 80T(1)(b); and
  - (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

**74E 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 74D, can not be counted for the relinquishment condition, the balance of the sub-blocks of the authority to prospect are 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—
  - (a) a sub-block not counted for the relinquishment condition was the subject of a lease application; 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.

#### **74F 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 74D, 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.

#### **74G Ending of authority to prospect if all of area relinquished**

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

### **Subdivision 2 Work programs**

#### **74H Requirement to have work program**

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

*Notes—*

- 1 The only 'work program' for an authority to prospect is its current initial work program provided for under section 151 or 155 or its later work program, as approved under part 4, division 2. See the definition of that term in section 2.
- 2 For the requirements to lodge a proposed later work program see sections 25M, 74K and 80T.
- 3 For approval of proposed later development plans see part 4, division 2, subdivision 2.

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**74I Compliance with exploration activities in work program**

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

**74J Penalty relinquishment if work program not completed within extended period**

(1) If—

- (a) under part 4, division 2, subdivision 3, 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.

(2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.

*Note—*

For other relevant provisions about giving the chief executive documents, see part 9, division 1A.

(3) If the holder does not comply with subsection (2), the Minister may take action under section 80T(1)(b).

**74K 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.

*Notes—*

- 1 For approval of the proposed program, see part 4, division 2, subdivision 2.

- 2 If the holder wishes to renew the authority, a proposed later work program must be included in the renewal application. See section 25M(1).
- (2) The obligation is complied with only if the proposed later work program—
- (a) is lodged; and
  - (b) complies with the later work program requirements; and
- Note—*
- For requirements for proposed later work programs, see part 4, division 2, subdivision 1.
- (c) is accompanied by the relevant fee.
- (3) A proposed later work program must be lodged at least 40, but no more than 100, business days before the end of the program period for the current work program for the authority (the ***current work program period***).
- (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 eligible balance of 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 plan period or if subsection (4) applies and the holder does not lodge another proposed later work program within the eligible balance of 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 40 business days after the giving of the notice; and
  - (b) the holder must comply with the requirement.
- (6) In this section—
- eligible balance***, for a current work program period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

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*relevant fee*, for the lodgement 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)—an amount that is 10 times the prescribed fee.

#### **74L 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 74K(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).

### **Subdivision 3 Miscellaneous conditions**

#### **74M 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—

[s 74N]

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- (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.

#### **74N Petroleum royalty and annual rent**

- (1) From 31 December 2004, the holder must pay the State—
  - (a) petroleum royalty as required under the 2004 Act, chapter 6; and
  - (b) annual rent, as prescribed under a regulation.
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation under the 2004 Act.

### **Division 3 Specific mandatory conditions for leases and related provisions**

#### **Subdivision 1 Development plans**

##### **74O Requirement to have development plan**

A lessee must have a development plan for the lease.

*Notes—*

- 1 For what is the ‘development plan’ for a lease, see the definition of that term in section 2.
- 2 For the requirements to lodge a proposed later development plan see sections 40, 45, 74Q and 80T.
- 3 For approval of proposed later development plans see part 6, division 2, subdivision 2.

##### **74P Compliance with development plan**

- (1) A lessee must comply with the development plan for the lease.

*Note—*

For a lease being taken to have a development plan until a decision on whether to approve a proposed development plan is made, see section 53D.

- (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*.

### **74Q Obligation to lodge proposed later development plan**

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

*Notes—*

- 1 For approval of the proposed plan, see part 6, division 2, subdivision 2.
  - 2 If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 25M.
- (2) The obligation is complied with only if the proposed later development plan—
- (a) is lodged; and
  - (b) complies with the later development plan requirements; and
  - (c) is accompanied by the relevant fee.
- (3) A proposed later development plan must be lodged—
- (a) for a petroleum lease granted after the commencement of this section—within 6 months after the grant; or
  - (b) otherwise—
    - (i) at least 40, but no more than 100, business days before the end of the plan period for its current development plan (the *current plan period*); or
    - (ii) 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 eligible balance of the period, lodge another proposed later development plan.
- (5) If the holder does not lodge any proposed later development plan before the end of the current development plan period or if subsection (4) applies and the holder does not lodge another proposed later development plan within the eligible balance of the current development plan period—
  - (a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 40 business days after the giving of the notice; and
  - (b) the holder must comply with the requirement.
- (6) In this section—

*eligible balance*, for a current plan period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

*relevant fee*, for the lodgement 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)—an amount that is 10 times the prescribed fee.

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**74R Consequence of failure to comply with notice to lodge proposed later development plan**

- (1) If a lessee does not comply with a requirement under section 74Q(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).

**Subdivision 2 Other mandatory conditions for leases**

**74S Restriction on flaring or venting**

- (1) A lessee 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 coal seam 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 holder would otherwise obtain because of the use of the gas under the scheme would be reduced.
- (5) In this section—

***greenhouse abatement scheme*** means—

[s 74T]

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

#### **74T Obligation to commence production**

A lessee 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.

### **Division 4 Provisions for all 1923 Act petroleum tenures**

#### **Subdivision 1 Preliminary**

##### **74U Application of div 4**

This division applies to any 1923 Act petroleum tenure holder.

#### **Subdivision 2 General mandatory conditions**

##### **74W Civil penalty for nonpayment of annual rent**

- (1) If the holder does not pay the annual rent as required under section 46 or 74N, 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.

#### **74X Compliance with land access code**

A 1923 Act petroleum tenure holder must—

- (a) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and
- (b) ensure any other person carrying out an authorised activity for the holder complies with the mandatory provisions of the land access code.

#### **74Z Obligation to comply with Act and prescribed standards**

- (1) The holder must—
- (a) comply with this Act; and
- (b) in carrying out an authorised activity for the tenure, comply with—
- (i) any standard that the tenure provides for the activity; and
- (ii) to the extent that the tenure 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, an international standard or a code or protocol.

#### **75 Obligation to survey if Minister requires**

- (1) The Minister may, by notice to the holder, require the holder to survey or re-survey the area of the tenure 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 5                      Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced**

### **75A      Obligation to decommission pipelines**

- (1) A 1923 Act petroleum tenure holder must, before the decommissioning day, decommission, in the way prescribed under a regulation, any pipeline in the area of the tenure.

Maximum penalty—1,000 penalty units.

*Note—*

For a general provision about ownership while a tenure is in force for a pipeline, see section 79X.

- (2) However, subsection (1) does not apply if—
  - (a) the pipeline was constructed or operated under another 1923 Act petroleum tenure or 2004 Act petroleum tenure and the pipeline has not, since its construction, operated under the holder’s tenure; and
  - (b) the pipeline is operated as an authorised activity for a 1923 Act petroleum tenure or a 2004 Act petroleum tenure.
- (3) In this section—

***decommissioning day*** means the later of the following days—

- (a) the earlier of the following—
  - (i) the day the tenure ends;
  - (ii) the day the land ceases to be in the area of the tenure;
- (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.

## **75B Obligation to remove equipment and improvements**

- (1) This section applies for equipment or improvements in the area of the tenure that are being, or have been, used for an authorised activity for the tenure.
- (2) However, this section does not apply for—
- (a) a well, pipeline, water observation bore or water supply bore; or

*Notes—*

- 1 For wells, water supply bores and water observation bores, see part 6D.
  - 2 For the obligation to decommission pipelines, see section 75A.
  - 3 For a general provision about ownership while a tenure is in force for a pipeline, see section 79X.
- (b) equipment or improvements on land that, under section 20, ceases to be in the area of an authority to prospect.
- (3) The holder of the tenure must, before the removal day, remove the equipment or improvements from the land, unless the owner of the land otherwise agrees.

Maximum penalty—1,000 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.

*Note—*

For ownership of equipment and improvements, see section 80.

- (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 tenure ends;
- (ii) the day the land ceases to be in the area of the tenure;
- (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.

### **75C Authorisation to enter to facilitate compliance with s 74X or this division**

- (1) The Minister may, by notice, authorise a former holder of a 1923 Act petroleum tenure to enter any of the following land to comply with, or remedy a contravention of, section 74X or this division—
  - (a) the land to which section 74X or this division applies (*primary land*);
  - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.

*Note—*

For the power of an authorised person to ensure compliance, see section 80L.

- (2) Section 74X, the definition *conditions* in section 2 and the Common Provisions Act, chapter 3, part 2 (other than division 5) and parts 3 and 7 apply to the former holder for the purpose of the authorisation as if—
  - (a) the tenure were still in force (the *notional tenure*); and
  - (b) the former holder is the holder of the notional tenure; and
  - (c) the primary land and any secondary land are in the area of the notional tenure; and
  - (d) the compliance or the remedying of the contravention were authorised activities for the notional tenure.

- (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 show, or make a reasonable attempt to show, the occupier the former holder's authorisation under this section.

## **Part 6B**                      **Provisions relating to authorised activities**

### **75D**      **General restriction on carrying out authorised activities**

The carrying out of an authorised activity for a 1923 Act petroleum tenure is subject to—

- (a) the provisions of the tenure; and
- (b) compliance with the tenure holder's rights and obligations under this Act.

*Note—*

The carrying out of particular activities on particular land in a 1923 Act petroleum tenure's area may not be authorised following the taking of the land under a resumption law. See section 124B.

### **75E**      **Who may carry out authorised activity for holder**

- (1) An authorised activity for a 1923 Act petroleum tenure may be carried out for its 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;

[s 75EA]

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- (d) officers and employees of, or agents of, or contractors for, agents or contractors mentioned in paragraph (c).

*Example—*

A lessee may also enter into a coordination arrangement under which another party to the arrangement may carry out an authorised activity for the lease. See the 2004 Act, 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.

## **75EA Limitation of owner's or occupier's tortious liability for authorised activities**

- (1) This section applies to an owner or occupier of land in the area of a 1923 Act petroleum tenure if—
  - (a) someone else carries out an authorised activity for a 1923 Act petroleum tenure on the land; or
  - (b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a 1923 Act petroleum tenure.
- (2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.
- (3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.
- (4) This section applies—
  - (a) despite any other Act or law; and

- (b) even though this Act or the 1923 Act petroleum tenure prevents or restricts the carrying out of the activity as an authorised activity for the tenure.
- (5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

## Part 6C Commercial viability assessment

### 75F Minister's power to require commercial viability report

- (1) The Minister may, by notice (a **report requirement**), require a 1923 Act petroleum tenure holder to lodge a written report (a **commercial viability report**) about all or a stated part of the tenure's area 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 petroleum in the area or stated part; or
    - (ii) it may, within the next 15 years, be commercially viable to produce petroleum in the area or stated part.
- (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.

## **75G 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;
  - (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 1923 Act petroleum tenure holder, it is commercially viable to produce petroleum in the area;
  - (e) if the holder's opinion is that it is not commercially viable to produce petroleum in the area—state whether, in the holder's opinion, it will, within the next 15 years, be commercially viable to produce 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.

## **75H Minister's power to obtain independent viability assessment**

- (1) This section applies for a 1923 Act 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 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 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 75I, seek to recover the costs;
  - (e) that the holder may, within a stated reasonable period, lodge submissions about the proposed assessment.
- (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.

## **75I Costs of independent viability assessment**

If—

- (a) the Minister has incurred costs in obtaining, under section 75H, an independent viability assessment about a 1923 Act petroleum tenure; and
- (b) the notice under section 75H about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the 1923 Act petroleum tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

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

## **Part 6D**                      **Wells, water observations bores and water supply bores**

### **Division 1**                      **Restrictions on drilling**

#### **75J**      **Requirements for drilling well**

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

Maximum penalty—300 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.

#### **75K**      **Restriction on who may drill water observation bore or water supply bore**

- (1) A person must not drill a water observation bore or water supply bore unless the person is a licensed water bore driller.

Maximum penalty—300 penalty units.

- (2) However, a 1923 Act petroleum tenure holder may drill a water observation bore or water supply bore in the area of the tenure if the holder complies with the requirements for drilling a water observation bore or water supply bore prescribed under a regulation.
- (3) Also, a water monitoring authority holder may drill a water observation bore in the area of the authority if the holder complies with the requirements for drilling a water observation bore prescribed under a regulation.

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## Division 2                      **Converting well to water observation bore or water supply bore**

### 75KA Application of div 2

This division applies to a well in the area of a 1923 Act petroleum tenure that has been drilled as required under section 75J, or decommissioned under section 75U, on or after 1 January 2012.

### 75L Restrictions on making conversion

- (1) The 1923 Act petroleum tenure holder may convert the well to a water observation bore or water supply bore only if—
  - (a) the holder lodges—
    - (i) a well completion report for the well; and
    - (ii) a notice in the approved form that the holder intends to convert the well to a water observation bore or water supply bore; and
  - (b) the holder complies with requirements prescribed under a regulation for converting the well to a water observation bore or water supply bore.

Maximum penalty—500 penalty units.

- (2) The approved form must require the holder to state the day on which the well will be converted to a water observation bore or water supply bore.
- (3) In this section—

***well completion report*** means a well completion report that a regulation requires a 1923 Act petroleum tenure holder to lodge under section 76G(1)(b).

### **75M Notice of conversion**

The 1923 Act petroleum tenure holder must, within 10 business days after the holder converts the well, lodge a notice stating the information prescribed under a regulation.

Maximum penalty—50 penalty units.

### **75MA Time of conversion**

- (1) The well is taken to be converted to a water observation bore or water supply bore on the earlier of the following—
  - (a) the day stated in the approved form under section 75L;
  - (b) the day the notice under section 75M is lodged.
- (2) However, if the holder fails to give notice under sections 75L and 75M, the well is taken to be converted to a water observation bore or water supply bore immediately after the well is converted.

## **Division 3 Transfers of wells, water observation bores and water supply bores**

### **Subdivision 1 General provisions**

#### **75N Operation of div 3**

- (1) This division permits, in particular circumstances, the transfer of the following in relation to a 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 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).

*Note—*

For ownership of equipment and improvements, see section 80.

### **75O Transfer only permitted under div 3**

A purported transfer of a 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.

### **75P Effect of transfer**

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

*Note—*

For the responsibility for a well or bore after its decommissioning, see section 75W.

## **Subdivision 2 Permitted transfers**

### **75Q Transfer of water observation bore or water supply bore to landowner**

- (1) A 1923 Act 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.

*Note—*

See also the *Water Act 2000*, section 808.

- (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) The requirements are that both of the following have been lodged—
  - (a) a notice in the approved form;
  - (b) the transfer fee prescribed under a regulation.
- (4) The approved form must require—
  - (a) a statement by the holder transferring the bore that—
    - (i) if the bore has been drilled under section 75K—section 75K has been complied with for the bore; or
    - (ii) if the bore has been converted from a well under section 75L—section 75L has been complied with for the bore; and
  - (b) the signed consent of the landowner to the transfer.
- (5) In this section—

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

## **75QA Transfer of water observation bore to State**

- (1) A 1923 Act petroleum tenure holder may transfer a water observation bore in the area of the tenure to the State if—
  - (a) the holder gives the chief executive a notice, in the approved form, offering to transfer the bore to the State; and
  - (b) the chief executive receives the notice no later than 60 business days before the holder must, as required under section 75U, decommission the bore; and

- (c) the chief executive, within 20 business days after receiving the notice, gives the holder notice that the State consents to the transfer.
- (2) The approved form must require a statement by the holder transferring the bore that—
  - (a) if the bore was drilled under section 75K, section 75K has been complied with for the bore; or
  - (b) if the bore has been converted from a well under section 75L—section 75L has been complied with for the bore.
- (3) If the chief executive gives the holder a notice under subsection (1)(c), the notice must state the day the transfer takes effect.
- (4) If the chief executive does not give the holder a notice under subsection (1)(c), the holder must, as required under section 75U, decommission the bore.

#### **75R Transfer of well to holder of geothermal tenure or mining tenement**

A 1923 Act petroleum tenure holder may transfer a well in the 1923 Act petroleum tenure's area to the holder of a geothermal tenure or mining tenement if—

- (a) the well is in the geothermal tenure's or mining tenement's area; and
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged; and
- (c) the Minister approves the transfer.

#### **75S Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder**

- (1) A 1923 Act petroleum tenure holder, a 2004 Act petroleum tenure holder or a water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the holder of another 1923 Act petroleum tenure,

[s 75T]

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- 2004 Act petroleum tenure or a 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; and
  - (c) the Minister approves the transfer.
- (2) The approved form must require a statement by the holder transferring the bore that—
- (a) if the bore has been drilled under section 75K—section 75K has been complied with for the bore; or
  - (b) if the bore has been drilled under the 2004 Act, section 282—the 2004 Act, section 282 has been complied with for the bore.

### **Subdivision 3      Notice of transfer**

#### **75T      Notice of transfer to Water Act regulator or Mineral Resources Act chief executive**

- (1) If a transfer is made under section 75Q the chief executive must give the Water Act regulator notice of the transfer.
- (2) If a transfer is made under section 75R, 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.



- (iv) a copy of the agreement has been lodged.
- (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) for a bore—the decommissioning complies with the Water Act, sections 816 and 817; and
  - (c) the responsible person has given the chief executive a notice, in the approved form, about the decommissioning of the well or bore.

*Note—*

For the power of an authorised person to ensure compliance, see section 80L.

- (5) Subsection (4)(b) applies only to the extent it is not inconsistent with subsection (4)(a).

## **75V Right of entry to facilitate decommissioning**

- (1) This section applies if—
- (a) a responsible person under section 75U has not carried out decommissioning on land as required under that section; and
  - (b) the relevant 1923 Act 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 it is reasonably necessary to cross for access to the primary land.
- (3) The Common Provisions Act, chapter 3, parts 2, 3 and 7 applies 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 responsible person is its holder;
- (b) as if the primary land and other land mentioned in subsection (2)(b) is in the area of the tenure or authority;
- (c) as if the decommissioning is an authorised activity for the tenure or authority.

### **75W Responsibility for well or bore after decommissioning**

- (1) This section applies if a 1923 Act petroleum tenure holder or water monitoring authority holder has, under section 75U, decommissioned a well, water observation bore or water supply bore.

*Note—*

For the obligation to decommission, see section 75U.

- (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 tenure or authority ends;
  - (b) when the land on which the well or bore is located ceased to be in the area of the tenure or authority.
- (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 well or 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.
- (6) However—
- (a) the transfer from the State can only be to—

[s 75WA]

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- (i) the owner of the land on which the well or bore is located; or
  - (ii) the holder of a geothermal tenure 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.

## **Division 5            Water monitoring authorities**

### **Subdivision 1        Obtaining water monitoring authority**

#### **75WA Who may apply for water monitoring authority**

- (1) A 1923 Act petroleum tenure holder may apply for a water monitoring authority for stated land to allow the holder to comply with the holder's underground water obligations for the tenure.
- (2) The application may be made or granted for—
  - (a) land in the area of another 1923 Act petroleum tenure or a 2004 Act petroleum authority; and
  - (b) 1 or more tenures or authorities mentioned in paragraph (a) held by the same applicant.

#### **75WB Requirements for making application**

The application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

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## **75WC 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 Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.
- (4) The authority must state its area and each 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which it relates.
- (5) The authority may also state—
  - (a) conditions or other provisions of the authority, other than conditions or provisions that are—
    - (i) inconsistent with subdivision 2 or section 75WM or any other mandatory condition for water monitoring authorities; or
    - (ii) inconsistent with a condition of any 1923 Act petroleum tenure or a 2004 Act 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 water monitoring activities, if the exclusion or restriction does not prevent the holder from complying with the holder's underground water obligations.

## **Subdivision 2      Key authorised activities**

### **75WD Operation of sdiv 2**

- (1) This subdivision provides for the key authorised activities for a water monitoring 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 authorised activities is subject to—
  - (a) sections 3, 74X, 75WH and 75WI; and
  - (b) the Common Provisions Act, chapter 3; and
  - (c) the conditions of the authority; and
  - (d) any exclusion or restriction provided for in the authority on the carrying out of the activities.

### **75WE Water monitoring activities**

The authority holder may carry out any water monitoring activity in the area of the authority to comply with the holder's underground water obligations for the tenure.

### **75WF 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

### **75WG Authorisation for Water Act**

For the Water Act, the taking of or interference with underground water, under section 75WF, is taken to be authorised.

*Note—*

For unauthorised taking, supplying or interfering with water, see the Water Act, section 808.

### **75WH 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 subdivision or the Water Act.

*Notes—*

- 1 For authorised taking of, or interfering with, water without a water entitlement, see the Water Act, chapter 2, part 2, division 1A.
- 2 For unauthorised taking, supplying or interfering with water, see the Water Act, section 808.

### **75WI 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 1923 Act petroleum tenure or a 2004 Act petroleum tenure, or of another water monitoring authority, the area of which includes the area of the authority.

Maximum penalty—1,000 penalty units.

### **75WJ 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.

## **Subdivision 3      Miscellaneous provisions**

### **75WK Term of authority**

Subject to part 6P, division 3, a water monitoring authority continues in force until there is no longer any 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates.

### **75WL Provision for who is the authority holder if only 1 related petroleum tenure**

- (1) This section applies if there is only 1 1923 Act petroleum tenure to which a water monitoring authority relates.
- (2) The authority holder is taken to be the person who, from time to time, holds the 1923 Act petroleum tenure to which the authority relates.

### **75WM 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 1923 Act petroleum tenure or a 2004 Act petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

### **75WN Amending water monitoring authority by application**

- (1) The holder of a water monitoring authority may apply to amend it—
  - (a) to increase or decrease its area; or
  - (b) to add or omit, or reflect an amendment of, a 1923 Act petroleum tenure or a 2004 Act petroleum tenure that relates to the authority.
- (2) The holder can not apply to amend the authority in any other way.
- (3) The application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.
- (4) The Minister may grant or refuse the amendment.
- (5) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.
- (6) The amendment may be granted (a *conditional grant*) subject to the applicant's written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate.

*Notes—*

- 1 For the power to correct or amend, see section 125.
- 2 For security, see part 6G.
- (7) On refusal of the application or the making of a decision to make a conditional grant, the applicant must be given an information notice about the decision to refuse or to make the conditional grant.

## Part 6E Reporting

### Division 1 General reporting provisions

*Note—*

For the requirement for giving a copy of a relinquishment report, see section 77O.

#### **75X Requirement to report outcome of testing**

- (1) This section applies if a 1923 Act petroleum tenure holder carries out testing for petroleum from any well in the area of the authority.
- (2) The holder must, within 40 business days after the testing ends, lodge a report stating the outcome of the test.

### **75XA Notice about water observation bore or water supply bore to Water Act regulator**

- (1) This section applies if a person—
  - (a) drills a water observation bore or water supply bore; or
  - (b) converts a well to a water observation bore or water supply bore.
- (2) The person must, within 60 business days after the day the drilling or conversion starts, give a notice to the Water Act regulator stating the information prescribed under a regulation about the bore.

### **75Z Relinquishment report**

If part of the area of a 1923 Act petroleum tenure is relinquished as required or authorised under this Act, 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.

*Note—*

For specific mandatory conditions for authorities to prospect, and related provisions, see part 6A, division 2.

### **76 End of tenure report**

If a 1923 Act petroleum tenure ends, the person who held the tenure 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 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;
  - (iv) a summary of all significant hazards created to future safe and efficient mining that, under the 2004 Act section 690(1)(g) or 706 or a regulation under that Act, 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) data on the amount and location of all petroleum and water produced from the area of the tenure;
  - (vii) any data related to data 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 data 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.

## **Division 2                      Records and samples**

### **76A      Requirement to keep records and samples**

- (1) A 1923 Act petroleum tenure holder must, for the period and in the way prescribed under a regulation, keep the records and samples about authorised activities carried out under the 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.

## **76B Requirement to lodge records and samples**

- (1) A person who, under section 76A, 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 1923 Act petroleum tenure ends.

Maximum penalty—500 penalty units.

- (2) The copy of the record must—
- (a) be—
- (i) given electronically using the system for submission of reports made or approved by the chief executive; and
  - (ii) in the digital format made or approved by the chief executive; or
- (b) if a way of giving the copy is prescribed under a regulation—be given in that way.
- (3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief

executive are available for inspection on the department's website.

- (4) The 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.
- (5) 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.

- (6) 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.
- (7) However, the extension must not end later than—
  - (a) for subsection (1)—6 months after the required time; or
  - (b) for subsection (5)—1 year after the required time.
- (8) 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.

## **Division 3                      Releasing required information**

### **76C    Meaning of *required information***

*Required information*, for a 1923 Act 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 76G(2).

### **76D    Public release of required information**

- (1) The mere fact of the existence of a 1923 Act 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 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 a relinquishment condition.

- (3) The authorisation is not affected by the ending of the tenure.

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**76E Chief executive may use required information**

- (1) The mere fact of the existence of a 1923 Act 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.

**76G 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 1923 Act petroleum tenure holder to—
  - (a) keep stated information, or types of information, about authorised activities carried out under the tenure; or  
*Example of a 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 tenure.  
*Example of a stated time—*  
for a report about a 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

*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) may state—
  - (a) a format required for giving the information; and
  - (b) a degree of precision required for the giving of the information.
- (4) A copy of a notice under subsection (1)(b) must be given to both the owners and occupiers of affected land in the way and at the times prescribed under a regulation.
- (5) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

- (6) In this section—

*affected land* means land on which an authorised activity is, or has been, carried out.

*information* includes documents, records and samples.

## **76GA Giving copy of required notice by publication**

- (1) This section applies if, under section 76G(4), a 1923 Act petroleum tenure holder must give owners and occupiers of affected land a copy of a notice about authorised activities carried out under the tenure.
- (2) The chief executive may approve the 1923 Act petroleum tenure holder giving the notice by publishing it in a stated way.
- (3) The publication may relate to more than 1 notice.
- (4) The chief executive may give the approval only if satisfied—
  - (a) if the notice is required to be given before an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land at least 10 business days before the authorised activity is carried out; or

- (b) if the notice is required to be given after an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land.
- (5) If the chief executive approves the giving of the notice under subsection (2)—
  - (a) the notice may state where a copy of further information referred to in the publication may be obtained, or inspected, free of charge; and
  - (b) the holder is not required to comply with section 76G(4).
- (6) In this section—

*affected land* means land on which an authorised activity is, or has been, carried out.

### **76GB Copy of particular notices for chief executive (environment)**

- (1) This section applies if—
  - (a) a regulation requires a 1923 Act petroleum tenure holder to lodge a notice under section 76G(1)(b); and
  - (b) the 1923 Act petroleum tenure holder lodges the notice as required.
- (2) The chief executive must give the chief executive (environment) a copy of the notice.
- (3) In this section—

*chief executive (environment)* means the chief executive of the department in which the *Environmental Protection Act 1994* is administered.

## **Part 6F                      Provisions for coal seam gas**

### **Division 1                      Preliminary**

#### **Subdivision 1                  Introduction**

##### **76H    Main purposes of pt 6F**

The main purposes of this part are, in conjunction with the 2004 Act, chapter 3 and the Mineral Resources Act, chapter 8, 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 1923 Act petroleum tenure and a coal or oil shale mining tenement are granted over the same area; and
- (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; and

*Note—*

For transitional provisions for the 2004 Act, see the Mineral Resources Act, chapter 15, part 2, division 6.

- (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 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.

## **76I How main purposes are achieved**

- (1) The main purposes of this part are achieved, in this part, the 2004 Act, chapter 3 or the Mineral Resources Act, chapter 8, by—
  - (a) providing for processes to decide the priority of overlapping lease applications and coal or oil shale mining tenement applications and potential applications; and
  - (b) facilitating the obtaining of a 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
  - (d) imposing restrictions on the authorised activities for particular 1923 Act petroleum tenures; and
  - (e) imposing additional—
    - (i) requirements relating to development plans for petroleum exploration or production under a lease; and
    - (ii) conditions on authorities to prospect and leases; and
  - (f) granting the following the right to apply for a 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) the definition of *petroleum* in section 2—
  - (b) the 2004 Act, sections 800(2) and 802(1)(c);
  - (c) the 2004 Act, chapter 2, part 8;
  - (d) the 2004 Act, chapter 9;
  - (e) the Mineral Resources Act, sections 3A and 6, chapter 8 and chapter 15, part 2, division 6.

## **76J Relationship with other provisions of Act**

- (1) Requirements and restrictions under this part apply as well as any relevant requirements under another provision of this Act.
- (2) If this part imposes a requirement for, or a restriction on, the granting or renewal of a 1923 Act petroleum tenure, the tenure can not be granted or renewed if the restriction applies or if the requirement has not been complied with.
- (3) If this part imposes a requirement for, or a restriction on, the carrying out of an authorised activity for a 1923 Act petroleum tenure, despite the other provision, 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 part conflicts with the other provision, the provision of this part prevails to the extent of the inconsistency.

## **Subdivision 2 Definitions for pt 6F**

### **76K 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).

**76L 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.

**76M 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 Act 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.

**76N 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.

**76O 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.

**Division 2 Additional provisions for authorities to prospect**

**Subdivision 1 Grant of authority to prospect in area of coal or oil shale exploration tenement**

**76P 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.

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- (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.

## **Subdivision 2      Restriction on authorised activities on coal or oil shale mining lease land**

### **76Q      Application of sdiv 2**

This subdivision applies if land in the area of a coal or oil shale mining lease is in the area of an authority to prospect.

### **76R      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 joint interaction management plan developed by the site senior executive and the authority holder; and
  - (b) a copy of the agreement has been lodged; and
  - (c) the agreement is still in force.

*Note—*

For offences regarding land subject to a mining claim or mining lease, see the Mineral Resources Act, section 403.

- (2) Subsection (1) does not apply, or ceases to apply, if the same person holds the authority and the mining lease.

### **Subdivision 3      Condition**

#### **76S      Compliance with obligations under Mineral Resources Act**

If an obligation under the Mineral Resources Act, section 318AW or 318DB, applies to an authority to prospect holder, it is a condition of the authority that the holder must comply with the obligation.

### **Division 3              Renewal provisions**

#### **76T      Application of div 3**

- (1) This division applies if—
  - (a) all or part of land in the area of a lease is in the area of a coal or oil shale exploration tenement; and
  - (b) the lessee wishes to apply under section 45 to renew the lease.
- (2) However, this division does not apply if—
  - (a) the lessee is a holder of the tenement; or
  - (b) the application is to be made with the tenement holder's written consent.

#### **76U      Additional requirements for making application**

- (1) The application must include the following—
  - (a) a statement (a *CSG statement*) that complies with section 76V;
  - (b) other information that addresses the matters mentioned in subsection (2) (the *CSG assessment criteria*).
- (2) The CSG assessment criteria are—
  - (a) the requirements of the 2004 Act, chapter 9; and

- (b) the initial development plan requirements; and
- (c) 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
- (d) the effect of the renewed 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 renewed 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 76W(1)(b) and any changes of the type mentioned in section 76W(1)(c);
    - (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

- (e) having regard to the public interest in petroleum production from, and the development of any coal or oil shale resources in, the land.

## **76V 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 system for all operating plant, or proposed operating plant, for proposed petroleum production under the lease that may affect possible future safe and efficient mining under the coal or oil shale mining lease.
- (2) The proposed safety management system must—
  - (a) comply with the requirements under the 2004 Act, sections 675 and 705C, for a safety management system; and
  - (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient mining under a future mining lease.

## **76W Applicant's obligations**

- (1) The applicant must—
  - (a) within 10 business days after making the 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 consult with the tenement holder about the applicant's proposed later development plan and proposed safety management system; and
  - (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 renewed 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;
    - (iii) any comments the applicant wishes to make about any submissions lodged by the tenement holder, under section 77;
    - (iv) any changes to the proposed later development plan or proposed safety management system;
    - (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 renewed 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) and (c) apply only to the extent the provisions or arrangement are commercially and technically feasible for the applicant.

## **76X Minister may require further negotiation**

- (1) The Minister may, after receiving the notice under section 76W(1)(d), require the applicant to conduct

[s 76Y]

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negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 76W(1)(c).

- (2) The applicant must use all reasonable attempts to comply with the requirement.

### **76Y 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 76W or 76X, the application may be refused.

*Note—*

For confidentiality of information, see division 7.

### **76Z 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 section 76W—
  - (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
- (b) after receiving a copy of the application, make reasonable attempts to reach an agreement with the applicant about the matters mentioned in section 76W(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.

*Note—*

For confidentiality of information, see division 7.

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**77 Submissions by coal or oil shale exploration tenement holder**

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the application.
- (2) However, the submissions may be lodged only within 3 months after the holder is, under section 76W(1)(a), given a copy of the application (the *submission period*).
- (3) The submissions may—
  - (a) 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
  - (b) include a proposal by the tenement holder for the development of coal or oil shale in the land; and
  - (c) include information relevant to the CSG assessment criteria; and

*Note—*

For confidentiality of information, see division 7.

- (d) include reasonable provisions for the safety management system for petroleum production under the renewed lease.

*Note—*

For requirements for consultation with particular coal or oil shale mining tenement holders, see the 2004 Act, section 386.

- (4) The holder must give the applicant a copy of the submissions.
- (5) In deciding the conditions of the lease, regard must be had to the submissions.

## **Division 4                    Other additional provisions for leases**

### **Subdivision 1            Conditions**

#### **77N    Compliance with obligation to negotiate with coal or oil shale mining lease applicant**

If the obligation under the Mineral Resources Act, section 318CA, applies to a lessee, it is a condition of the lease that the lessee must comply with the obligation.

#### **77O    Requirement for giving of copy of relinquishment report**

- (1) This section applies if—
  - (a) a lessee has, under section 75Z, 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 lessee 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.

#### **77P    Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement**

If—

- (a) a 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.

## **Subdivision 2      Amendment of relinquishment condition by application**

### **77Q      Application of sdiv 2**

This subdivision applies if a 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.

### **77R      Conditions for applying to amend**

- (1) The lessee 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 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.

## **77S Obligation of coal or oil shale exploration tenement holder to negotiate**

The coal or oil shale exploration tenement holder must, if asked by the lessee, make reasonable attempts to reach an agreement with the lessee about the matters mentioned in section 77R(1) that provides the best resource use outcome without significantly affecting the parties' rights or interests.

## **77T Requirements for making application**

- (1) The application must—
  - (a) be in the approved form; and
  - (b) state whether or not the development plan for the lease has been complied with; and
  - (c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and
  - (d) include a CSG statement; and
  - (e) include a proposed later development plan for the lease as amended under section 77R; and
  - (f) include a statement about each of the following—
    - (i) the details of the consultation carried out under section 77R(1)(a);
    - (ii) the results of the consultation;
    - (iii) whether the proposed development plan includes all provisions proposed by the coal or oil shale exploration tenement holder under section 77R(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 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
- (g) be accompanied by the fee prescribed under a regulation.
- (2) However, the CSG statement need not include a proposed safety management system.

#### **77U 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.

#### **77V Submissions by coal or oil shale exploration tenement holder**

- (1) The coal or oil shale exploration tenement holder may lodge submissions about the application.
- (2) However, the submissions may be lodged only within 20 business days after the holder is, under section 77U, 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.

### **77W 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 77R(1)(b).
- (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.

### **77X 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 lease.
- (2) The application can not be granted unless the proposed plan has been approved.
- (3) Part 6, division 2 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 lease;
  - (d) any submissions under section 77V lodged within the period mentioned in section 77V(2).

- (5) The applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.

### **Subdivision 3      Restriction on amendment of other conditions**

#### **77Y      Interests of relevant coal or oil shale mining tenement holder to be considered**

A condition of a lease must not be amended unless the interests of any relevant coal or oil shale mining tenement holder have been considered.

### **Division 5              Restrictions on particular transfers**

#### **77Z      Requirement for coordination arrangement to transfer lease in tenure area of mining lease**

- (1) This section applies, despite the Common Provisions Act, chapter 2, part 1, 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 for registration under the Common Provisions Act, section 19 unless the proposed transferee and the mining lease holder are parties to a coordination arrangement about—
- (a) petroleum production under the lease; and
  - (b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

## **Division 6                      Additional provisions for development plans**

### **Subdivision 1                Additional requirements for proposed later development plans**

#### **77ZA    Operation of sdiv 1**

This subdivision provides for additional requirements for a proposed later development plan for a lease.

#### **77ZB    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 part; and
- (b) the CSG assessment criteria.

#### **77ZC    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.

#### **77ZD    Consistency with coal or oil shale mining lease, development plan and relevant coordination arrangement**

If all or part of the area of the 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 for proposed later development plans**

### **77ZE    Application of sdiv 2**

This subdivision applies if—

- (a) the Minister is considering whether to approve a proposed later development plan for a lease; and
- (b) the area of the lease includes all or part of the area of a coal or oil shale mining tenement.

### **78      Additional criteria for approval**

The matters that must be considered include—

- (a) the CSG assessment criteria; and
- (b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.

## **Division 7            Confidentiality of information**

### **78A    Application of div 7**

- (1) This division 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 part requires the information-giver to give the recipient, including, for example, information given to comply with section 76Z(a); or
  - (b) for the purposes of this part.

(2) However, this division 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 1923 Act petroleum tenure or a coal or oil shale mining tenement.

### **78B 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 1923 Act 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.

### **78C Civil remedies**

If the recipient does not comply with section 78B, 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.

## **Part 6FA Provisions for geothermal tenures and GHG authorities**

### **Division 1 Preliminary**

#### **78CA Relationship with other provisions**

- (1) Requirements and restrictions under this part apply as well as any relevant requirements and restrictions under another provision of this Act.
- (2) This part does not otherwise limit or affect relevant requirements or restrictions under another provision of this Act.

#### **78CB What is an *overlapping authority (geothermal or GHG)***

An *overlapping authority (geothermal or GHG)*, for a 1923 Act petroleum tenure, is any geothermal tenure or GHG authority all or part of the area of which is in the 1923 Act petroleum tenure's area.

#### **78CC General provision about 1923 Act petroleum tenures for land subject to geothermal tenure or GHG authority**

Subject to the other provisions of this part, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect the carrying out of authorised activities for a 1923 Act petroleum tenure.

## **Division 2                      Restrictions on authorised activities for authorities to prospect**

### **78CD Overlapping geothermal or GHG lease**

- (1) This section applies if—
  - (a) land in the area of an authority to prospect is in the area of a geothermal lease or GHG lease; and
  - (b) the authority to prospect and the GHG lease are not held by the same person.
- (2) An authorised activity for the authority to prospect may be carried out on the land only if—
  - (a) the geothermal lease or GHG lease holder has not in the way required under subsection (3), objected to the carrying out of the activity; or
  - (b) if an objection under paragraph (a) has been made—the Minister has, under section 78CF, decided the authorised activity may be carried out.

*Note—*

For notice of authorised activities, see section 78CM.

- (3) The objection must be written, given to the authority to prospect holder and lodged.

### **78CE Overlaps with geothermal permit or particular GHG authorities**

- (1) This section applies if land is in the area of an authority to prospect and any of the following (the *other authority*)—
  - (a) a geothermal permit;
  - (b) a GHG authority other than a GHG lease.
- (2) An authorised activity for the authority to prospect can not be carried out on the land if—
  - (a) carrying out the activity adversely affects the carrying out of an authorised activity for the other authority; and

- 
- (b) the authorised activity for the other authority has already started.

### **78CF Resolving disputes about the restrictions**

- (1) This section applies if, under section 78CD, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by an authority to prospect holder.
- (2) This section also applies if there is a dispute between an authority to prospect holder and a geothermal permit or GHG authority holder about whether an authorised activity for the authority to prospect can be carried out under section 78CE.
- (3) Either of the parties may by a notice in the approved form ask the Minister to decide—
  - (a) for section 78CD—whether the authorised activity may be carried out under that section; or
  - (b) for section 78CE—whether the authorised activity may be carried out under that section.
- (4) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.

*Note—*

For other relevant provisions about making a submission, see part 9, division 1A.

- (5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- (6) The Minister’s decision binds the parties.
- (7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- (8) In this section—

*parties* means—

[s 78CG]

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- (a) for a request about a matter mentioned in subsection (1)—the authority to prospect holder and the geothermal lease or GHG lease holder; or
- (b) for a request about a matter mentioned in subsection (2)—the authority to prospect holder and the geothermal permit or GHG authority holder.

### **Division 3                    Leases with overlapping geothermal tenure or GHG authority**

#### **Subdivision 1            Continuance of coordination arrangements after renewal or dealing**

#### **78CG Requirement to continue geothermal or GHG coordination arrangement**

- (1) This section applies if—
  - (a) a lease under this Act has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the *other lease*); and
  - (b) a geothermal coordination arrangement or GHG coordination arrangement applies to the lease under this Act; and
  - (c) any of the following take place for the lease under this Act—
    - (i) a renewal;
    - (ii) a transfer;
    - (iii) a subletting of the lease or a share in the lease.
- (2) It is a condition of the lease under this Act that its holder must continue to be a party to the following for the lease while the other lease continues in force—

- (a) if the other lease is a geothermal lease—a geothermal coordination arrangement;
- (b) if the other lease is a GHG lease—a GHG coordination arrangement.

## **Subdivision 2      Later development plans**

### **78CH Operation of sdiv 2**

This subdivision imposes additional requirements for a proposed later development plan for a lease if—

- (a) there is an overlapping authority (geothermal or GHG) for the lease; and
- (b) the overlapping authority (geothermal or GHG) is a geothermal tenure or a GHG tenure (the *overlapping tenure*).

### **78CI Statement about interests of overlapping tenure holder**

The proposed plan must include a statement of how the effects on and the interests of the overlapping tenure holder have or have not been considered having regard to the following—

- (a) the provisions of the 2004 Act, chapter 9;
- (b) the attempts made by the applicant to consult with the overlapping tenure holder about the applicant's proposed development plan and proposed safety management system for the lease;
- (c) any changes to the proposed plan or system to give effect to any reasonable proposal by the overlapping tenure holder;
- (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed lease and the overlapping tenure;
- (e) the public interest.

### **78CJ Consistency with overlapping tenure’s development plan and with any relevant coordination arrangement**

- (1) To the extent the area of the lease and the overlapping tenure will coincide, the proposed plan must be consistent with any geothermal coordination arrangement or GHG coordination arrangement for that area.
- (2) Subsection (3) applies only if the overlapping tenure is a geothermal lease or GHG lease.
- (3) The proposed plan must to the extent the area of the lease and the overlapping tenure coincide or will coincide, be consistent with the overlapping tenure’s development plan.

## **Division 4 Provisions for all 1923 Act petroleum tenures**

### **Subdivision 1 Safety management systems**

#### **78CK Requirements for consultation with particular overlapping tenure holders**

- (1) This section applies if—
  - (a) a person (an *operator*) proposes to be an operator of operating plant in the area of a 1923 Act petroleum tenure; and
  - (b) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of authorised activities for an overlapping authority (geothermal or GHG) for the 1923 Act petroleum tenure; and
  - (c) the overlapping authority (geothermal or GHG) is an overlapping tenure.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult

with the overlapping tenure holder about relevant activities for the plant.

- (3) If there is more than 1 operator, the 1923 Act petroleum tenure holder may coordinate the consultation between the operators and the overlapping tenure holder.
- (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
  - (a) the operator gives the overlapping tenure holder a copy of the parts of the operator's proposed safety management system concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
  - (b) the overlapping tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the system.
- (5) An operator must, before making or remaking a safety management system for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the system proposed by the overlapping tenure holder concerning 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 1923 Act petroleum tenure holder.
- (7) If an operator makes a safety management system for relevant operating plant and the system includes provisions proposed by the overlapping tenure holder, the operator must—
  - (a) give the overlapping tenure holder a copy; and
  - (b) lodge a notice stating any provisions proposed under subsection (5) and whether they were included in the system.
- (8) In this section—

*remaking*, a safety management system, includes an amendment or remaking of the system of a type required under the 2004 Act, section 678.

**78CL Application of 2004 Act provisions for resolving disputes about reasonableness of proposed provision**

- (1) This section applies if a dispute exists between an operator to which section 78CK applies and an overlapping tenure holder about the reasonableness of a provision proposed by the overlapping tenure holder for the operator's proposed safety management system.
- (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 written and be lodged.
- (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge 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 system, or purported safety management system, for an operating plant complies with the 2004 Act, section 675.
- (8) In this section—  
*chief inspector* means the person who, under the 2004 Act, section 735, holds appointment as the chief inspector, petroleum and gas.

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## Subdivision 2 Other provisions

### 78CM Condition to notify particular authority holders of proposed start of designated activities

- (1) This section applies to a 1923 Act petroleum tenure holder if there is either of the following (the *other authority*) for the 1923 Act petroleum tenure—
  - (a) an overlapping authority (geothermal or GHG);
  - (b) a geothermal tenure or GHG authority sharing a common boundary with the 1923 Act petroleum tenure.
- (2) Before the 1923 Act petroleum tenure holder first starts a designated activity in the other authority's area, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice of the activity.
- (3) A notice under subsection (2) must state—
  - (a) when the designated activity is to start; and
  - (b) where the designated activity is to be carried out; and
  - (c) the nature of the activity.
- (4) Before changing the land on which the designated activity is being carried out, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.
- (5) Compliance with this section is a condition of the 1923 Act petroleum tenure.
- (6) In this section—

***designated activity*** means any authorised activity for the 1923 Act petroleum tenure, other than—

  - (a) an authorised activity for the 1923 Act petroleum tenure that is the same as or similar to an incidental activity under the 2004 Act, section 33 or 112; or

- (b) an activity only involving selecting places where other authorised activities for the 1923 Act petroleum tenure may be carried out.

### **78CN Restriction on power to amend**

If, for a 1923 Act petroleum tenure, there is an overlapping authority (geothermal or GHG) that is an overlapping tenure, the 1923 Act petroleum tenure may be amended under section 125 only if the interests of the overlapping tenure holder have been considered.

## **Part 6G Security**

### **78D Operation and purpose of pt 6G**

- (1) This part empowers the Minister to require, from time to time, a 1923 Act petroleum tenure holder, or a person who has applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.
- (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 rent payable by the holder to the State; and
  - (c) other unpaid amounts payable under this Act or the 2004 Act by the holder to the State, including, for example, any of the following—
    - (i) unpaid civil penalty;
    - (ii) unpaid interest on unpaid petroleum royalty or annual rent;
    - (iii) any debt payable by the holder under section 101; and

- (d) any compensation the State must pay under section 80P because of the exercise, or purported exercise, of a remedial power under section 80L in relation to the tenure, whether or not the tenure has ended.

### **78E Power to require security for 1923 Act petroleum tenure**

- (1) The Minister may require a 1923 Act petroleum tenure holder, or a person who has applied for a 1923 Act petroleum tenure, to give the State security for the tenure, or proposed tenure.
- (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.

### **78F Minister's power to require additional security**

- (1) The Minister may, at any time, require a 1923 Act petroleum tenure holder to increase the amount of security given for the tenure.
- (2) However—
  - (a) if, because of an increase in the prescribed amount under section 78E(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 78E(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 tenure; and
  - (b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount.
- (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).

## **78G Interest on security**

The State may keep any interest that accrues on security given under this part for a 1923 Act petroleum tenure.

## **78H Power to use security**

The State may use security given under this part for a 1923 Act petroleum tenure, and any interest that accrues on the security, to make a payment mentioned in section 78D(2) in relation to the tenure.

## **78I Replenishment of security**

- (1) This section applies, if—
  - (a) under section 78H, all or part of the security for a 1923 Act petroleum tenure has been used; and
  - (b) the tenure is still in force.
- (2) The Minister must give the tenure 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 tenure up to the higher of the following—
    - (i) the amount prescribed under a regulation;
    - (ii) if the notice states that, under section 78E, another amount is required—the other amount.

## **78J Security not affected by change in holder**

- (1) This section applies if security for a 1923 Act petroleum tenure is given under this part for a 1923 Act petroleum tenure that is still in force and there is a subsequent change in the tenure 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 78H.
- (3) 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 tenure.

## **78K Retention of security after 1923 Act petroleum tenure ends**

- (1) Security, or part of security, given for a 1923 Act petroleum tenure may be kept for 1 year after the tenure has ended.



- (5) Subsections (2) to (4) apply despite—
- (a) an Act or law of a State; or
  - (b) a contract, covenant or claim of right under a law of a State.

### **79Y Ownership afterwards**

- (1) Section 79X applies and continues to apply for the pipeline, and for any subsequent 1923 Act petroleum tenure under which the pipeline is operated, if the tenure ends or the land on which the pipeline is constructed ceases to be in the area of the tenure.
- (2) However, the section is subject to—
- (a) section 80L; and
  - (b) any condition of the former tenure.
- (3) Also, if the pipeline is decommissioned under section 75A the 1923 Act petroleum tenure holder, or former 1923 Act petroleum tenure holder, may dispose of it to anyone else.

## **Division 2 Equipment and improvements**

### **79Z 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 1923 Act petroleum tenure; and
  - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the tenure; and
  - (c) the tenure continues in force.
- (2) However, this division—
- (a) does not apply for a pipeline; and

*Notes—*

- 1 For the obligation to decommission pipelines, see section 75A.
- 2 For a general provision about ownership while a tenure is in force for a pipeline, see section 79X.

(b) is subject to part 6O.

(3) In this section—

*equipment* includes machinery and plant.

*improvements*—

- (a) does not include a well, water observation bore or water supply bore; but
- (b) does include any works constructed in connection with the well or bore.

## **80 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.

*Note—*

For the obligation to remove equipment and improvements, see section 75B.

- (2) However, for a well, water observation bore or water supply bore, subsection (1) is subject to part 6D, divisions 3 and 4.
- (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

- 
- (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 6O                      Enforcement of end of tenure and area reduction obligations

### 80L      Power of authorised person to ensure compliance

- (1) This section applies if the holder, or former holder, of a 1923 Act petroleum tenure has not complied with section 75A, 75B or 75U in relation to land (the *primary land*).
- (2) A person authorised by the chief executive (the *authorised person*) may, by complying with section 80M, exercise the following powers (*remedial powers*)—
  - (a) enter the primary land and do all things necessary to ensure the requirement is complied with;
  - (b) enter any other land (the *secondary land*) necessary or desirable to cross for access to the primary land.
- (3) The authorisation—
  - (a) must be written; and
  - (b) may be given on conditions the Minister considers appropriate.
- (4) The 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.

## **80M Requirements for entry to ensure compliance**

- (1) Remedial powers may be exercised in relation to the primary or secondary land under section 80L 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.

## **80N 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.

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**80O 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 80P from the State.

**80P 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.

**80Q 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 1923 Act petroleum tenure 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.

*Note—*

For the deduction of the net proceeds of the sale from the amount claimed in any proceeding to recover the costs, see section 80R(2).

## **80R 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 80L, incurs in exercising a remedial power; and
  - (b) compensation payable by the State under section 80P in relation to the exercise of the remedial power.

*Note—*

For additional orders that may be made on conviction, see section 118.

- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 80Q 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 80Q.

*responsible person* means the holder, or former holder, of the 1923 Act petroleum tenure in relation to which the remedial powers were exercised.

## Part 6P Noncompliance procedure

### Division 1 Introduction

#### 80S Operation of pt 6P

- (1) This part provides a process for noncompliance action against the holder of any 1923 Act petroleum tenure.
- (2) The power to take noncompliance action under this division does not limit a power as follows (the *other power*)—
  - (a) the power under part 6G to require new or additional security;
  - (b) a power under another provision of this Act to amend the tenure.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken at the same time as the other power is exercised.

### Division 2 Noncompliance action

#### 80T Types of noncompliance action that may be taken

- (1) The noncompliance action the Minister may take under this division is all or any of the following—

- (a) amending the 1923 Act petroleum tenure by doing all or any of the following—
  - (i) reducing the term of the tenure;
  - (ii) reducing its area;  
*Example of a possible reduction—*

An authority to prospect holder has not, in contravention of section 74I, 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 tenure;
  - (iv) imposing a new condition;
- (b) requiring the tenure holder to relinquish a stated part of the area of the tenure on or before a stated time;
- (c) cancelling the tenure, immediately or on a stated day;
- (d) cancelling, from a stated day, any work program or development plan and directing its holder to, on or before that day, lodge the following program or plan so that the Minister may decide whether to approve the program or plan—
  - (i) for an authority to prospect—a proposed later work program that complies with the work program requirements;
  - (ii) for a lease—a proposed later development plan that complies with the later development plan requirements;
- (e) requiring the tenure holder to pay the State a penalty of an amount no more than the monetary value of 2,000 penalty units.

*Note—*

For notice of a proposed noncompliance action, see section 80W.

- (2) However, a requirement under subsection (1)(e) 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 tenure.
- (4) If, under subsection (1)(c), the tenure is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the tenure until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the tenure.

## **80U When noncompliance action may be taken**

- (1) Noncompliance action may be taken if—
  - (a) an event mentioned in subsection (2) has happened; and
  - (b) the procedure under division 3 for taking the action has been followed; and
  - (c) the 1923 Act petroleum tenure 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) is not, or has ceased to be, qualified under section 7AA, to hold a 1923 Act petroleum tenure; or
  - (b) obtained the tenure because of a materially false or misleading representation or declaration, made orally or in writing; or
  - (c) has failed to comply with this Act, a direction given under this Act or the tenure; or
  - (d) did not pay an amount under this Act by the day it became owing; or
  - (e) has used any land in the area of the tenure for an activity that—

- (i) is not an authorised activity for the tenure or that, under any of the following, can not be carried out on the land—
  - (A) the Geothermal Act, chapter 5;
  - (B) the GHG storage Act, chapter 4;
  - (C) the Mineral Resources Act, section 3A or chapter 9; and
- (ii) the holder can not otherwise lawfully carry out; or
- (f) has used the tenure for a purpose other than for a purpose for which it was granted; or
- (g) has carried out, or purported to carry out, work under the tenure for which the tenure was not granted; or
- (h) is the subject of a notice given to the Minister by the chief executive of the department administering the Water Act, stating that the holder has been convicted of an offence against the Water Act, chapter 3.

## **Division 3                      Procedure for noncompliance action**

### **80V      Application of div 3**

This section applies if the Minister proposes to take noncompliance action in relation to a 1923 Act petroleum tenure.

### **80W      Notice of proposed noncompliance action**

- (1) The Minister must give the tenure holder a notice stating each of the following—
  - (a) that the Minister 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.
- (2) The notice may state—
- (a) if the noncompliance action is likely to include amending the tenure—the likely amendment; and
  - (b) the amount of any likely reduction of the area of the tenure.
- (3) The stated period must be at least 20 business days after the holder is given the notice.

### **80X Considering submissions**

- (1) The Minister must consider any submissions lodged by the holder, during the period stated in the notice given under section 80W.
- (2) If the Minister decides not to take noncompliance action the Minister must promptly give the holder a notice of the decision.

### **80Y Decision on proposed noncompliance action**

- (1) If, after complying with section 80X, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action in relation to the tenure, that relates to a ground stated in the notice given under section 80W.
- (2) The Minister 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 tenure.

- (3) In considering whether the holder is a suitable person to hold, or to continue to hold, the tenure the Minister must consider the capability criteria.

## **80Z Notice and taking effect of decision**

- (1) If the Minister makes a decision under section 80Y, the Minister must after making the decision give an information notice about the decision to—
  - (a) the tenure holder; and
  - (b) any other person who holds an interest in the tenure, as recorded in the 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 the tenure, the decision does not take effect until the end of the appeal period for the decision.

*Notes—*

- 1 For the period to appeal, see section 105.
- 2 For when the Land Court may grant a stay of the decision, see section 107.

## **81 Consequence of failure to comply with relinquishment requirement**

- (1) This section applies if—
  - (a) noncompliance action taken is a requirement, under section 80T(1)(b), of a 1923 Act petroleum tenure holder; and
  - (b) the requirement is not complied with.
- (2) The holder must be given a notice requiring the holder to comply with the requirement under section 80T(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 tenure is cancelled.
- (4) However, the cancellation does not take effect until the holder is given a notice stating that the tenure has been cancelled because of the operation of subsection (3).

## **Part 6Q                      Other common provisions for 1923 Act petroleum tenures**

### **83            Restrictions on location of drills**

- (1) A lessee or holder of an authority to prospect shall not commence drilling within 60m of any of the outer boundaries of the land comprised in the lease or held under the authority to prospect, as the case may be, unless the adjoining land is not the area of a 1923 Act petroleum tenure or 2004 Act petroleum tenure.
- (2) However, this restriction shall not apply to any bore which is being drilled at the time such lease or authority to prospect of the adjoining land is granted in respect of such adjoining land.

### **84            Prevention of waste etc.**

- (1) Every lessee and holder of an authority to prospect shall carry on all his or her operations in a good and skilful manner in accordance with recognised and approved methods and practice to the satisfaction of the Minister and shall take all reasonable precautions to prevent waste of petroleum developed in the land and to prevent the entrance of water through wells drilled by the lessee or holder to the petroleum deposits so to destroy or injure or be likely to destroy or injure any petroleum deposits.
- (2) Every lessee and holder of an authority to prospect shall carry out at his or her own expense all reasonable requirements directions and orders of the Minister relative to the prevention of waste and the protection and preservation of the land held

by the lessee or holder, and neighbouring property, and for the safety, protection, and welfare of workers, and shall comply with such rules and directions as are issued by the Minister under this Act as to methods of operation.

- (3) The Minister is authorised to do any and all things necessary to carry out and accomplish the purposes of this Act in that behalf.

## **85 Casing well**

Every lessee and every holder of an authority to prospect unless in any case wholly or partially excused by the Minister from so doing, shall properly case each well with metal casing in accordance with the best approved methods, landing and effectually cementing 1 or more strings of the casing in clay or other water-impervious strata and generally shall take all such steps as may be reasonably necessary for effectually shutting off the escape of all water and for effectually preventing any water from penetrating any petroleum deposits, and for effectually preventing any petroleum from penetrating any aquifer.

## **86 Water rights**

- (1) Notwithstanding the provisions of the Water Act—
  - (a) a holder of an authority to prospect or a lessee may, with the prior permission in writing of the Minister and subject to such terms and conditions as the Minister deems fit, which terms and conditions shall be set out in such permission, search for, obtain, store and use underground water (including artesian and subartesian water) within the limits of the land covered or demised by the authority or lease, for any of the purposes for which such authority or lease was granted and for any purpose incidental thereto; and
  - (b) the Minister shall before granting any such permission refer the application for permission to the Water Act regulator, who shall investigate the application and

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make thereon to the Minister a report, together with such recommendation as the Water Act regulator deems fit; and

- (c) any permission granted by the Minister pursuant to paragraph (a) may authorise the holder of the authority to prospect or lessee to supply, by agreement between the parties (but subject to the obtaining by such holder or lessee of the prior approval of the Water Act regulator as to the quantities and usage of the water in question), to the owner or occupier of the land covered or demised by the authority or lease, or the owner or occupier of any land adjoining or in the vicinity of such land, any water obtained by such holder or lessee, pursuant to such permission, that is surplus to the requirements of such holder or lessee for the purposes aforementioned.
- (2) However, a permission under subsection (1) is given on the condition that the authority to prospect holder or lessee complies with the underground water obligations applying to the holder or lessee.

## **87 Water monitoring activities**

- (1) Despite the Water Act, a 1923 Act petroleum tenure holder may carry out any of the following activities in the area of the holder's tenure to comply with its underground water obligations for the tenure—
  - (a) gathering information about, or undertaking an assessment of, a water bore;
  - (b) monitoring effects of the exercise of underground water rights for the tenure;
  - (c) constructing or plugging and abandoning a water observation bore;
  - (d) gathering information for preparing an underground water impact report or final report under the Water Act, chapter 3;

- (e) carrying out any other activity necessary to comply with an underground water obligation of the holder.
- (2) An activity mentioned in subsection (1) is a *water monitoring activity*.
- (3) In this section—  
*underground water rights* means the taking of water necessarily taken as part of petroleum production or testing for petroleum production under 1 or more 1923 Act petroleum tenures.  
*water bore* see the Water Act, schedule 4.

## **88 Duty to avoid interference in carrying out authorised activities**

A person who carries out an authorised activity for a 1923 Act petroleum tenure 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.

## **89 Compliance with Act etc.**

- (1) Every lessee and holder of an authority to prospect shall duly and punctually comply with this Act and with the requirements, directions, and orders of the Minister given and issued under the terms of the lease or authority to prospect as the case may be.
- (2) The lessee or holder shall conduct all mining drilling and relative productive operations, subject to the inspection of the Minister or authorised officer or representative.
- (3) The lessee or holder shall abide by and conform to regulations in force from time to time covering the matters referred to in the lease or authority to prospect, as the case may be.
- (4) However, the lessee or holder of the authority to prospect shall not be held responsible for delays occasioned by causes beyond his or her control.

- (5) In the event of the lessee or holder of the authority to prospect failing or neglecting to carry out the requirements of the Minister, the Minister by his or her workers and agents shall have the right to enter on the land and carry out any necessary operations at the lessee's or holder's expense.

## **90 Regulations may prescribe further provisions**

The regulations under this Act may provide for and prescribe further provisions and conditions with respect to 1923 Act petroleum tenures.

## **92 Delivery of premises in case of forfeiture**

In the event of a lease being duly forfeited, the lessee shall deliver up the land and improvements thereon, in good order and condition.

## **93 Right to mine for other minerals**

Mining for gold and other minerals therein or thereon may be allowed on such terms and conditions as the Minister may consider reasonable.

## **95 Limits on use of water from natural source**

- (1) A holder of an authority to prospect or a lessee who proposes to take water from any natural source under this Act shall—
- (a) take all steps to ensure that no water is lost during such taking; and
  - (b) take only such quantity of water as is properly required for his or her purpose in question;
- to the intent that there shall be left in such source sufficient water to satisfy the reasonable requirements of other persons who may lawfully take water from such source.

- (2) If any dispute arises in respect of the taking of water from such a source any party to the dispute may refer the issue to the Land Court.
- (3) The jurisdiction of the Land Court in respect of such a dispute includes jurisdiction to determine—
  - (a) the quantity of water to be respectively taken from the source in question by the parties to the dispute or any of them;
  - (b) the time and the manner of taking such water by any party to the dispute.
- (4) When the Land Court has made a determination in respect of either of the matters referred to in subsection (3)(a) or (b) the parties to the dispute who are affected thereby shall comply in all respects with such determination.

## **96 Who bound by terms of 1923 Act petroleum tenure**

Each of the obligations and benefits under any authority to prospect or lease shall be binding upon and extend to the heirs, executors, administrators, successors and permitted assigns of the holder of the authority to prospect or the lessee.

## **100 Union of leases**

- (1) Notwithstanding anything contained in this Act, the Minister may approve of the union of 2 leases, whether the areas embraced in such leases are contiguous or are not contiguous, subject to the following conditions—
  - (a) an application for such union shall be made to the Minister by means of a resolution passed by a majority in number and value (calculated in each case as prescribed) of the persons registered for the time being as holders of the leases concerned;
  - (b) subject to this section or as may be prescribed, all the provisions of this Act governing leases and matters and things concerning same shall apply and extend to any such union of leases, as the case may be.

- (2) Regulations may be made to give full effect to the objects and provisions of this section.

**101 Minister's power to ensure compliance by 1923 Act petroleum tenure holder**

- (1) This section applies if—
- (a) a 1923 Act petroleum tenure holder has not complied with a requirement of the holder under this Act; 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 a 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.
- (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).

*Note—*

For additional orders that may be made on conviction, see section 118.

## 102 Interest on amounts owing to the State under this Act

- (1) 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

*Note—*

For interest on an unpaid petroleum royalty or additional petroleum royalty, see the 2004 Act, section 602.

- (2) 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.
- (3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (4) Subsection (3) applies despite any order or direction of the payer.
- (5) In this section—

*relevant day* means the following—

- (a) for an amount for annual or other rent or a civil penalty for nonpayment of the 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.

## 103 Recovery of unpaid amounts

- (1) If a provision of this Act requires a 1923 Act petroleum tenure 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 tenure in relation to which the remedial powers were exercised.

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## **Part 6R**                      **Conferences with eligible claimants or owners and occupiers**

### **Division 1**                      **Preliminary**

#### **103A Application of pt 6R**

- (1) This part applies if an authorised officer is given a conference election notice by a 1923 Act petroleum tenure holder or an eligible claimant asking for a conference.
- (2) This part also applies if—
  - (a) an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—
    - (i) that someone claiming to act under a 1923 Act petroleum tenure, or to have entered land on the tenure holder's instructions—
      - (A) is not authorised to be on the land; or
      - (B) is not complying with a provision of this Act or a condition of the 1923 Act petroleum tenure;
    - (ii) activities being, or proposed to be, carried out on the land apparently under a 1923 Act petroleum tenure (including when the activities are being, or are to be, carried out);
    - (iii) the conduct on the land of someone apparently acting under a 1923 Act petroleum tenure; or
  - (b) a 1923 Act petroleum tenure holder who is concerned about something relevant to the tenure involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or

- (c) for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a 1923 Act petroleum tenure.

## **Division 2                      Calling conference and attendance**

### **103B    Calling conference**

- (1) If this part applies because of the giving of a conference election notice, the authorised officer must, by notice, ask the 1923 Act petroleum tenure holder and the eligible claimant (the *parties*) to attend a conference by the authorised officer.
- (2) If this part applies under section 103A(2), the authorised officer may, by notice, ask the 1923 Act petroleum tenure holder and the owner or occupier or other person with an interest in the concerns (also the *parties*) to attend a conference by the authorised officer about the concerns.
- (3) The notice must state when and where the conference will be held and what is to be discussed at the conference.

### **103C    Who may attend conference**

- (1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.
- (2) Also, with the authorised officer's approval, someone else may be present to help a person attending the conference.
- (3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.

### **103D    What happens if a party does not attend**

- (1) This section applies if a party given notice of a conference under section 103B(2) does not attend.
- (2) The authorised officer may hold the conference even though someone given notice of it does not attend.

- (3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.
- (4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.
- (5) If the Land Court makes the order, it must decide the amount of the costs.

## **Division 3                      Conduct of conference**

### **103E    Authorised officer's role**

- (1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.
- (2) Subject to the Common Provisions Act, section 83B, the authorised officer is to decide how the conference is to be conducted.

### **103F    Statements made at conference**

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

### **103G    Agreement made at conference**

If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.

## **Part 7**                      **Appeals**

### **104**    **Who may appeal**

- (1) A person whose interests are affected by a decision identified in the schedule, may appeal against the decision to the Land Court.
- (2) For subsection (1), 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.

### **105**    **Period to appeal**

- (1) The appeal must be started within 20 business days after—
  - (a) if the person has been given an information notice about the decision—the day the person is given the notice; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may, at any time within the 20 business days, extend the period for making an appeal.

### **106**    **Starting appeal**

- (1) The appeal is started by filing a written notice of appeal with the Land Court.
- (2) A copy of the notice must be lodged.
- (3) An appeal to the District Court may be made to the District 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*.

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## **107 Stay of operation of decision**

- (1) The Land Court 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 Land Court considers appropriate; and
  - (b) operates for the period fixed by the Land Court; and
  - (c) may be amended or cancelled by the Land Court.
- (3) The period of a stay under this section must not extend past the time when the Land Court decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

## **108 Hearing procedures**

- (1) In deciding an appeal, the Land Court—
  - (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 Land Court; or
  - (b) in the absence of relevant rules, as directed by the Land Court.
- (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

## **109 Land Court's powers on appeal**

- (1) In deciding an appeal, the Land Court 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 Land Court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is, for this Act, other than this part, taken to be the decision of the original decider.

## **Part 8                      Evidence and legal proceedings**

### **Division 1                      Evidentiary provisions**

#### **110      Application of div 1**

This division applies to a proceeding under or in relation to this Act.

#### **111      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 under the 2004 Act;
- (b) the power of the Minister or chief executive to do anything under this Act.

#### **112      Signatures**

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

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### 113 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) a 1923 Act petroleum tenure;
  - (v) a report;
  - (vi) another record;
- (aa) that a stated document is a register kept under the Common Provisions Act;
- (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);
- (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, a 1923 Act petroleum tenure—
  - (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;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;

- (g) a stated address for a 1923 Act petroleum tenure holder is the last address of the holder known to the Minister or the chief executive.

## **Division 2                      Offence proceedings**

### **114      Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) 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.

### **115      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.

### **116      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.
- (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.

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- (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.

## 117 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.

## **118 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.

*Note—*

For the power of an authorised person to ensure compliance, see section 80L.

- (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.
- (3) In this section—

*conviction* includes a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

## **Part 9 Miscellaneous**

### **Division 1 Applications**

#### **119 Application of div 1**

This division applies to an application under this Act other than an application under section 40.

*Note—*

Under section 25CA, this division also applies in relation to the lodgement by an authority to prospect holder of a proposed later work program for the authority.

## **120 Requirements for making an application**

- (1) The Minister must refuse to receive or process a purported application, other than to the Land Court, not made under the requirements under this Act for making the application.
- (2) However, the Minister may decide to allow the application to proceed and be decided as if it did comply with the requirements if the Minister is satisfied the application substantially complies with the requirements.
- (3) If the Minister decides to refuse to receive or process the purported application—
  - (a) the Minister must give the applicant notice of the decision and the reasons for it; and
  - (b) the chief executive must refund the application fee to the applicant.

## **121 Request to applicant about application**

- (1) For an application under this Act, the chief executive may, by notice, require the applicant to do all or any of the following within a stated reasonable period—
  - (a) complete or correct the application if it appears to the chief executive to be incorrect, incomplete or defective;
  - (b) give the chief executive or a stated officer of the department additional information about, or relevant to, the application;

*Example—*

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

- (c) give the chief executive or a stated officer of the department an independent report by an appropriately qualified person, or a statement or statutory declaration, verifying all or any of the following—
  - (i) any information included in the application;
  - (ii) any additional information required under paragraph (b);
  - (iii) if the application is to renew an authority to prospect—that the applicant meets the relevant capability criteria under part 4.
- (2) For subsection (1)(b), if the application is for a lease, a required document may include a survey or resurvey of the area of the proposed lease carried out by a person who is a cadastral surveyor under the *Surveyors Act 2003*.
- (3) For subsection (1)(c), the notice may require the statement or statutory declaration—
  - (a) to be made by an appropriately qualified independent person or by the applicant; and
  - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
- (4) The giving of a statement for subsection (1)(c) does not prevent the chief executive from also requiring a statutory declaration for the subsection.
- (5) The applicant must bear any costs incurred in complying with the notice.
- (6) The chief executive may extend the period for complying with the notice.
- (7) In this section—
  - application* does not include an application to the Land Court.
  - information* includes a document.

## **121A Refusing application for failure to comply with request**

- (1) The Minister may refuse an application if—

- (a) a notice under section 121 has been given for the application; and
  - (b) the period stated in the notice for complying with it has ended; and
  - (c) the request has not been complied with to the chief executive's satisfaction.
- (2) To remove any doubt, subsection (1) applies despite another provision of this Act that provides the application must be granted in particular circumstances or if particular requirements have been complied with.

### **121B Particular criteria generally not exhaustive**

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.
- (2) To remove any doubt, it is declared that the Minister may, in making the decision, consider any other criteria the Minister considers relevant.
- (3) However, subsection (2) does not apply if the provision otherwise provides.
- (4) In this section—  
*criteria* includes issues and matters.

### **121C Particular grounds for refusal generally not exhaustive**

- (1) This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.
- (2) To remove any doubt, it is declared that, unless the other provision otherwise provides, the Minister may refuse the application on another reasonable and relevant ground.
- (3) In this section—  
*refuse*, an application, includes refuse the thing the subject of the application.

## **122 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 chief executive 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; and
  - (d) the person has paid any fee prescribed by regulation for the amendment.
- (2) 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.

## **123 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 lease—the granting of the lease.
- (2) The withdrawal of an application takes effect when the notice of withdrawal is lodged.

## **124 Minister's power to refund application fee**

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

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## **Division 1A                    How to lodge or give particular documents, make particular applications or make submissions**

### **124AA Place or way for making applications, giving or lodging documents or making submissions**

- (1) This section applies to any of the following under this Act—
  - (a) the making of an application;
  - (b) the giving of a document to the Minister or the chief executive;
  - (c) the lodging of a document;
  - (d) the making of a submission.
- (2) The application, document or submission may be made, given or lodged only—
  - (a) at the following place—
    - (i) the office of the department provided for under the relevant approved form for that purpose;
    - (ii) if the relevant approved form does not make provision as mentioned in subparagraph (i) or if there is no relevant approved form—the office of the department notified on the department’s website; or
  - (b) in the way prescribed under a regulation.
- (3) Without limiting subsection (2)(b), the way prescribed under a regulation may include making, giving or lodging the application, document or submission at another place.
- (4) This section does not apply to the following—
  - (a) the making of an application to the Land Court;
  - (b) the giving, to the chief executive, of a document that under this Act must be lodged electronically using the system for submission of reports made or approved by the chief executive;

- (c) the lodging of a copy of an agreement mentioned in section 178 under that section.

## **Division 2                      Miscellaneous provisions for 1923 Act petroleum tenures**

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

- (1) This section applies to the taking of land, other than by taking or otherwise creating an easement, under a resumption law.
- (2) Despite any other Act, the taking of land does not extinguish 1923 Act petroleum interests other than to the extent, if any, provided for in the resumption notice for the taking of the land.
- (3) The resumption notice for the taking of land may provide for the extinguishment of a 1923 Act petroleum interest on the taking only to the extent the relevant Minister for the taking is satisfied the interest is incompatible with the purpose for which the land is taken.
- (4) Without limiting the application of subsection (3), the relevant Minister may be satisfied a 1923 Act petroleum interest is incompatible with the purpose for which the land is taken if, for that purpose, it is necessary to extinguish all interests in the land, including native title rights and interests.
- (5) A 1923 Act petroleum interest may be—
  - (a) wholly extinguished; or
  - (b) partially extinguished by—
    - (i) excluding land from the land the subject of the interest; or
    - (ii) prohibiting the carrying out of activities by the holder of the interest.

- (6) The resumption notice for the taking of land may provide for the extinguishment of 1923 Act petroleum interests by reference to either or both of the following—
- (a) stated land, which—
    - (i) may be all or part of the land that is taken; and
    - (ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—
      - (A) as a shape that does not constitute a block or sub-block; or
      - (B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;
  - (b) stated 1923 Act petroleum interests, which may be all 1923 Act petroleum interests or 1923 Act petroleum interests of a particular type.
- (7) For the taking of land for which 1923 Act petroleum interests are extinguished as provided by this section—
- (a) each person's interest in an extinguished 1923 Act petroleum interest is converted into a right to claim compensation under the resumption law; and
  - (b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 124C.
- (8) The notice of intention to resume for the proposed taking of the land must state the extent to which the 1923 Act petroleum interests are proposed to be extinguished.
- (9) The entity taking the land must give the chief executive a notice that—
- (a) states the details of the extinguishment; and
  - (b) asks for the extinguishment to be recorded in the register; and

(c) is accompanied by a certified copy of the resumption notice.

(10) In this section—

*certified copy*, of the resumption notice, means a copy of the original of the notice that has been certified by a justice of the peace as being a correct copy of the original notice.

*relevant Minister*, for the taking of land under a resumption law, means—

- (a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the Minister to whom the application that the land be taken is made under section 9 of that Act; or
- (b) otherwise—the Minister administering the resumption law under which the land is, or is to be, taken.

#### **124B Effect of extinguishment of 1923 Act petroleum interests on the taking of land in a 1923 Act petroleum tenure's area (other than by an easement)**

- (1) This section applies if, under section 124A, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of 1923 Act petroleum interests for stated land.
- (2) If the resumption notice states that all 1923 Act petroleum interests relating to the stated land are extinguished and a 1923 Act petroleum interest relates only to the stated land, the interest is wholly extinguished.
- (3) If the resumption notice states that all 1923 Act petroleum interests relating to the stated land are extinguished and a 1923 Act petroleum interest relates to the stated land and other land—
  - (a) the stated land is no longer the subject of the interest; and
  - (b) without limiting paragraph (a)—

- (i) the stated land is excluded from the area of the 1923 Act petroleum tenure comprising the interest, or under or in relation to which the interest exists; and
  - (ii) this Act applies in relation to the area of the petroleum tenure with necessary and convenient changes to allow for the exclusion of the stated land, including, for example, to allow the area—
    - (A) to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area; and
    - (B) to comprise land that is not contiguous.
- (4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated 1923 Act petroleum interests is prohibited, the holder of a stated 1923 Act petroleum interest is not, or is no longer, authorised to carry out the stated activities on the stated land.
- (5) However, subsection (4) does not apply in relation to a 1923 Act petroleum interest that comprises, or exists under or in relation to, a new or renewed 1923 Act petroleum tenure granted after the land is taken.

#### **124C Compensation for effect of taking of land in a 1923 Act petroleum tenure's area on 1923 Act petroleum interests**

- (1) This section applies if land in a 1923 Act petroleum tenure's area is taken under a resumption law (including by taking or otherwise creating an easement).
- (2) In assessing any compensation to be paid to the holder of a 1923 Act petroleum interest in relation to the taking of the land, allowance can not be made for the value of petroleum known or supposed to be on or below the surface of, or produced from, the land.

## **125 Power to correct or amend**

- (1) The Minister may amend a 1923 Act petroleum tenure at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment is to—
  - (a) correct a clerical error; or
  - (b) state or more accurately state the boundaries of the area of the tenure because of a survey carried out under section 75.
- (2) The Minister may, at any time, amend a condition of a 1923 Act petroleum tenure if the tenure holder agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
  - (a) the mandatory conditions for that type of 1923 Act petroleum tenure;
  - (b) the term of the tenure;
  - (c) any work program or development plan for the tenure.
- (4) Also, the Minister can not amend the tenure if the tenure as amended would be inconsistent with a mandatory condition for that type of authority.

## **127 Joint and several liability for conditions and for debts to State**

If more than 1 person holds a 1923 Act petroleum tenure 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.

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## 128 Notice of agent

The Minister may refuse to deal with a person who claims to be acting as the authority holder's agent, unless the holder has given the Minister notice of the agency.

## Division 3 Other miscellaneous provisions

### 128A Period of effect of particular later work programs

- (1) This section applies if—
  - (a) before the commencement of this section, the holder of an authority to prospect was given, under section 25F, a notice (the *notice*) of the approval of a proposed later work program for the authority; and
  - (b) the notice was given to the holder of the authority after the start of the period of the proposed program as stated in the proposed program.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
  - (a) the start of the period; or
  - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
  - (a) even though the notice was given after the commencement of the period stated for the proposed program; and
  - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the program before the approval was given; and
  - (c) regardless of the extent to which section 25E(2)(c) and (d) was complied with.

*Example for paragraph (c)—*

It does not matter if a work program was considered under section 25E(2)(c) but was not current at the time of its consideration.

- (4) This section applies despite part 4, division 2.

## **128B Period of effect of particular later development plans**

- (1) This section applies if—
- (a) before the commencement of this section, the holder of a petroleum lease was given, under section 53G, a notice (the *notice*) of the approval of a proposed later development plan for the lease; and
  - (b) the notice was given to the holder of the lease after the start of the plan period for the proposed plan as stated in the proposed plan.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
- (a) the start of the plan period; or
  - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
- (a) even though the notice was given after the commencement of the plan period stated for the proposed plan; and
  - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the plan before the approval was given; and
  - (c) regardless of the extent to which section 53E(2)(e) was complied with.

*Example for paragraph (c)—*

It does not matter if a development plan was considered under section 53E(2)(e) but was not current at the time of its consideration.

- (4) This section applies despite part 6, division 2.

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## 129 Name and address for service

- (1) A person (the *first person*) may, by a signed lodged notice, 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 the Minister or the chief executive 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—  
*serve* includes give.

## 130 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 the Minister or the chief executive (the *recipient*); and
  - (b) the person gives the advice.
- (2) The recipient 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)—300 penalty units.

## 131 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.

### **132 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;

the applied law and any definition relevant to it apply, with necessary changes for that purpose.

### **133 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) the Minister;
- (b) the chief executive;
- (c) a public service officer or employee;
- (d) a contractor carrying out activities, relating to the administration of this Act, for the department;
- (e) 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.

- (2) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.

- (3) 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.

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**134 Delegation by Minister or chief executive**

- (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) In this section—

*appropriately qualified* includes having the qualifications, experience and competence to exercise the power.

**135 Approved forms**

- (1) The chief executive may approve forms for use under this Act.
- (2) 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.

**143 Points etc. to be ascertained by reference to Australian Geodetic Datum**

- (1) Where, for the purposes of this Act or of anything done or to be done under or for the purposes of this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160m and a flattening of  $\frac{100}{29825}$  and by reference to the position of the Johnston Geodetic Station in the Northern Territory.
- (2) Such station shall be taken to be situated at 133°12'30.0771" east longitude and at 25°56'54.5515" south latitude and to have a ground level of 571.2m above the spheroid referred to in subsection (1).

#### **144 Interference with pipeline or petroleum activities under this Act**

A person who destroys, damages, interferes with or operates any pipeline, or part of a pipeline, constructed or operated under this Act or anything on the site where the search for or recovery of petroleum is carried on under this Act commits an offence against this Act, unless the person does so under the authority of the owner of the pipeline or, as the case may be, thing.

Maximum penalty—200 penalty units.

#### **147 Penalties**

- (1) Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding 200 penalty units and, if the offence is a continuing one, a further penalty not exceeding 40 penalty units per day for each and every day during which the offence continues.
- (2) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*, upon the complaint of any person thereunto authorised in writing by the Minister.

#### **148 Other rights of action not affected**

Nothing in this Act shall be construed to take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by the person by reason of any mining operations carried on pursuant to the Mineral Resources Act upon private land, other than for loss or damage for which compensation is payable under this Act.

#### **149 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;
  - (c) the way an application or document must be made, given or lodged for section 124AA(2)(b), or the way a copy of a record must be given for section 76B(2)(b), including, for example—
    - (i) practices and procedures for lodgement of applications and other documents; and
    - (ii) methods for acknowledging receipt of documents; and
    - (iii) methods for acceptance of the lodgement of documents; and
    - (iv) the time at which a document is taken to have been lodged, but only to the extent that this Act does not provide otherwise;
  - (d) requiring lodgement of a hard copy of the application or document.
- (3) A regulation under this Act may be made in the same instrument as a regulation made under the 2004 Act.

### **150 Declaration about certain 1923 Act petroleum tenures**

- (1) This section applies to a 1923 Act petroleum tenure, (a *petroleum interest*) granted before or after the commencement of this section for hydrocarbons naturally occurring in association with coal (*coal seam gas*).
- (2) To remove any doubt, this Act applies, and is taken always to have applied, to the petroleum interest as if coal seam gas were petroleum.
- (3) Without limiting subsection (2) and to further remove any doubt—

- (a) the power of the Governor in Council or the Minister under this Act to grant an authority to prospect includes, and is taken always to have included, power to grant an authority to prospect for coal seam gas; and
- (b) the power of the Governor in Council or the Minister under this Act to grant a lease includes, and is taken always to have included, power to grant a lease for coal seam gas to the holder of an authority to prospect.

## **Part 10                      Transitional provisions for 1923 Act petroleum tenures from 31 December 2004**

### **Division 1                      General transitional provisions**

#### **Subdivision 1                Particular unfinished applications**

*Note—*

For other applications under this Act that, before 31 December 2004 were not finished see the 2004 Act, chapter 15, part 3.

#### **151      Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given**

- (1) This section applies if immediately before 31 December 2004—
  - (a) an authority to prospect application has not been granted or rejected; and
  - (b) a notice under the Commonwealth Native Title Act, section 29, had been given for the proposed authority to prospect the subject of the application.

*Note—*

For unfinished applications for authorities to prospect under this Act, other than applications for which a Commonwealth Native Title Act s 29 notice has been given, see the 2004 Act, chapter 15, part 3, division 3.

- (2) The application must continue to be decided, and the authority may be granted, under this Act as amended by the *Petroleum and Other Legislation Amendment Act 2004*, other than for the omission of former section 18(1).
- (3) However, the Minister may grant the authority only if the Minister has approved the work program for the authority.
- (4) The work program must comply with the initial work program requirements.
- (5) Section 121 applies for the application as if it had been made on 31 December 2004.
- (6) In this section—  
*initial work program requirements* means the requirements under sections 25A(1)(a) to (e) and 25B for a proposed initial work program.

**152 Additional condition of authority to prospect granted under s 151**

- (1) This section applies if—
  - (a) section 151 applies to an authority to prospect application; and
  - (b) the authority is granted; and
  - (c) when the authority is granted, land in its area 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.

### **153 Lapsing of unfinished former s 42 applications**

If—

- (a) before 31 December 2004 an application had been made under former section 42, as it was in force immediately before that day; and
- (b) immediately before 31 December 2004, the application had not been decided;

the application is taken to lapse on 31 December 2004.

## **Subdivision 2 Authorities to prospect**

### **154 Area of land in area of coal or oil shale mining lease becomes excluded land**

- (1) This section applies for land if it—
  - (a) is within any transitional notional sub-block of an authority to prospect in force from 31 December 2004; and
  - (b) was, when the authority was granted, in the area of a coal or oil shale mining lease, whether or not the land was, before 31 December 2004, in the area of the authority.
- (2) The land—
  - (a) does not form part of the area of the authority; and
  - (b) is taken to be excluded land for the authority.

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**155 Conditions of an authority to prospect about expenditure or work becomes its work program**

- (1) From 31 December 2004, the conditions of an authority to prospect about expenditure or work are, during the period to which the conditions apply, taken to be a later work program for the authority.
- (2) The period is taken to be the program period for the work program.

**Subdivision 3 Leases**

**156 Program for development and production for a lease becomes its development plan**

- (1) From 31 December 2004, the current program for development and production for a lease is taken to be the development plan for the lease.
- (2) The plan period for the development plan is taken to be the period from the start of the current program for development and production to the earlier of any of the following to happen—
  - (a) the end of the period to which the current program for development and production applies;
  - (b) if, on 31 December 2004, the remaining term of the lease is 5 years or more—the first anniversary of the original grant of the lease that happens after 6 months after 31 December 2004;
  - (c) if, on 31 December 2004, any land in the area of the lease is in the area of a coal or oil shale mining tenement or is the subject of an application under the Mineral Resources Act for a coal or oil shale mining tenement—the end of 6 months after 31 December 2004;
  - (d) the end of the lease.

*Notes—*

- 1 For the obligation to lodge a proposed later development plan, see section 74Q.
  - 2 For additional criteria for approval, see section 78.
- (3) In this section—

*current program for development and production*, for a lease, means its current program for development and production as mentioned in former section 50 as in force immediately before 31 December 2004.

## **Subdivision 4      Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions**

### **157      Environmental conditions prevail**

- (1) This section applies from 31 December 2004 for a condition (the *petroleum condition*) of a 1923 Act petroleum tenure if there are relevant environmental conditions for the tenure.
- (2) The petroleum condition ceases to have any effect if it is the same, or substantially the same, as any of the relevant environmental conditions.
- (3) If the petroleum condition conflicts with any of the relevant environmental conditions, the environmental condition prevails to the extent of the inconsistency.
- (4) In this section—  
*relevant environmental conditions*, for a 1923 Act petroleum tenure, means the conditions of any relevant environmental authority for the tenure.

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## Subdivision 5      Securities

### 158      **Provision for existing demands for additional or alternative security under former s 43(8)**

There is taken never to have been any limit to the amount of additional or alternative security that may be demanded under former section 43(8).

### 159      **Monetary securities**

- (1) This section applies to security (the *existing security*) held as money in relation to a 1923 Act petroleum tenure immediately before 31 December 2004.
- (2) The department must, as soon as practicable, after 31 December 2004, transfer the following part of the existing security (the *environmental component*) to the administering authority under the Environmental Protection Act—
  - (a) for an authority to prospect—the amount of the existing security, less \$4,000;
  - (b) for a lease—the amount of the existing security, less \$10,000.
- (3) On the transfer, the rest of the existing security is taken to be security given under this Act for the tenure.
- (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.

### 160      **Non-monetary securities**

- (1) This section applies for security held, other than as money, in relation to a 1923 Act petroleum tenure.
- (2) On 31 December 2004, 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 31 December 2004 in relation to an act done or omission made before 31 December 2004 if it could have been used in relation to the act or omission immediately before 31 December 2004; or
  - (b) affect the power under this Act to require replacement security or additional security for the tenure; or
  - (c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the tenure.
- (4) In this section—
- used* includes realised, in whole or part.

## **Subdivision 6 Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure**

### **161 Conversion to entry notice**

- (1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before 31 December 2004 and the notice relates to a 1923 Act petroleum tenure.

*Note—*

For entry notices under the *Petroleum Regulation 1966*, section 17, see the 2004 Act, section 925.

- (2) On 31 December 2004—
- (a) the notice of entry is taken to be an entry notice; and
  - (b) the entry notice is taken to have been given under part 6H; and
  - (c) the entry period for the entry notice is the shorter of the following periods to end—

- (i) the balance of the period of the notice of entry;
- (ii) the period that ends 6 months after the commencement.

## Subdivision 7 Compensation

### 162 Accrued compensation rights relating to 1923 Act petroleum tenure

- (1) This section applies if—
  - (a) a right, under the former compensation provisions, to compensation existed immediately before 31 December 2004; and
  - (b) the right—
    - (i) relates to a 1923 Act petroleum tenure; and
    - (ii) is about an act done or omission made before 31 December 2004.

*Note—*

For accrued compensation rights relating to a converted petroleum authority, see the 2004 Act, section 922.

- (2) The right continues after 31 December 2004.
- (3) The compensation must be decided under the former compensation provisions as if the provisions had not been repealed.
- (4) A matter relating to the compensation that, before 31 December 2004, had been referred to the Land and Resources Tribunal but not decided must be decided under the former compensation provisions.
- (5) In this section—

***former compensation provisions*** means sections 18(5) and 97 to 99 of this Act, as they were in force immediately before 31 December 2004.

**163 Existing compensation agreements relating to 1923 Act petroleum tenure**

- (1) This section applies to an agreement as mentioned in section 98(1) of this Act, as it was in force immediately before 31 December 2004, for compensation relating to a 1923 Act petroleum tenure.

*Note—*

For accrued compensation rights relating to a converted petroleum authority, see the 2004 Act, section 922.

- (2) On 31 December 2004, the agreement is taken to be a compensation agreement made under part 6K.
- (3) The agreement may be enforced, and may be the subject of an application under section 79S, as if it were a compensation agreement under part 6K.
- (4) Subsection (3) applies even if the agreement was not valid because section 98(2), as it was in force immediately before 31 December 2004, had not been complied with.

**Subdivision 8 Continuation of former cancellation provision in particular circumstances**

**164 Continued application of former s 22 for previous acts or omissions**

Despite its repeal, former section 22 of this Act, as it was in force immediately before 31 December 2004, continues to apply for an act done or omission made in relation to the authority that happened before that day.

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## Subdivision 9 Existing road uses

### 165 Exclusion of pt 6I, div 1 for continuance of particular existing road uses

- (1) If, immediately before the commencement, a 1923 Act petroleum tenure holder was using a public road in the area of the tenure for transport relating to a seismic survey or drilling activity, part 6I, division 1 does not apply for the use while it continues.
- (2) Subsection (3) applies for the use (the *haulage use*) by a 1923 Act petroleum tenure holder of a public road for haulage that relates to—
  - (a) the transportation of petroleum produced or processed in the area of the tenure; or
  - (b) the construction of a pipeline.
- (3) Part 6I, 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 (3) applies even if the haulage use stops and later starts again.
- (4A) A reference to part 6I, division 1 in this section is taken to include a reference to the Common Provisions Act, chapter 3, part 3, division 2.
- (5) In this section—

*commencement* means the day section 78Z commences.

## **Subdivision 9A Provisions for existing Water Act bores**

### **165A Exemption from, or deferral of, reporting provisions for existing 1923 Act petroleum tenure holders**

- (1) This section applies to the holder of any 1923 Act petroleum tenure under which petroleum production is carried out before 30 June 2005.
- (2) The holder must, within 12 months after 31 December 2004, 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 75IM and 75IX 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 75IM 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.

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**165B Make good obligation only applies for existing Water Act bores on or from 31 December 2004**

Section 75IG only applies in relation to an existing Water Act bore that was in existence on 31 December 2004 or came into existence after that day.

**Subdivision 10 Miscellaneous provisions**

**166 Provision for cancellation of particular conditions of lease 191**

The conditions numbered 1 to 3 and 5 to 10 of the lease numbered 191 are no longer conditions of that lease.

*Editor's note—*

Condition 10 of the lease numbered 191 provides—‘These conditions will have application until they are terminated by legislation implementing a new coal seam gas regime in Queensland.’.

**167 Application of s 3 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 3 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 3(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.
- (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 3 commences.

### **168 Deferral of s 52A for existing leases**

Section 52A does not apply to the holder of a lease in force at the commencement of this section until 12 months after 31 December 2004.

### **169 Deferral of s 79I for particular 1923 Act petroleum tenure holders**

If, immediately before 31 December 2004, a 1923 Act petroleum tenure holder is lawfully carrying out an authorised activity for the tenure on public land, section 79I does not apply to the holder until 6 months after 31 December 2004.

## **Division 2 Relinquishment condition until first renewal after 31 December 2004, and related provisions**

### **170 Application of div 2**

- (1) This division applies for an authority to prospect in force immediately before 31 December 2004 that, after that day, continues in force as an authority to prospect under this Act.

*Note—*

For the conversion of a particular authority to prospect granted under this Act to an authority to prospect under the 2004 Act, see the 2004 Act, chapter 15, part 3, division 2.

- (2) However, this division only applies for the period of the authority's current term.

*Note—*

From the end of the current term, the relinquishment conditions and related provisions under part 6A, division 2, subdivision 1, apply.

### **171 What is the *current term* of an authority to prospect**

- (1) 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 31 December 2004—

- (a) the day the authority was granted;
  - (b) the day the last renewal of the authority before 31 December 2004 became effective.
- (2) However, an authority 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 authority is taken to have become effective on the day immediately after the end of its last term before the renewal.

### **172 What are the *transitional notional sub-blocks* of an authority to prospect**

- (1) The *transitional notional sub-blocks*, of an authority to prospect, are the sub-blocks stated in the instrument for the authority at the start of its current term.
- (2) However, the *transitional notional sub-blocks* do not include any sub-block stated in the instrument that is completely within the area of a lease under this Act or a 2004 Act lease.
- (3) For subsection (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 1923 Act petroleum tenure or a 2004 Act petroleum tenure.

### **173 Relinquishment condition if authority includes a reduction requirement**

- (1) If the authority requires its area to be reduced to a stated number of blocks on or before stated days—
  - (a) the *relinquishment condition* for the authority is the relinquishment condition under section 74A, subject to

the change that the required percentage is the required reduction instead of 8.33%; and

- (b) part 6A, division 2, subdivision 1, applies to the authority, subject to the change under paragraph (a).
- (2) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the authority after 31 December 2004, at least 5% of the transitional notional sub-blocks for the authority must have been relinquished for each 12 month period of its current term.
- (3) Also, a relinquishment of a part of the area of the authority that overlaps with the area of a lease under this Act or a 2004 Act lease can not be counted as a relinquishment for the relinquishment condition.

*Note—*

For conditions for a renewal application, see section 25L.

## **174 Relinquishment condition if authority does not include a reduction requirement**

- (1) If the authority does not include a requirement mentioned in section 173(1), the *relinquishment condition* for the authority is the relinquishment condition under section 74A, with the following changes—
- (a) the required percentage is 5% instead of 8.33%;
  - (b) the reference in sections 74C(2) to the authority originally taking effect is a reference to the start of its current term.
- (2) Part 6A, division 2, subdivision 1, applies to the authority, subject to the changes under subsection (1).

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## Division 3                      Leases overlapping with an existing or proposed mineral development licence

### Subdivision 1              Preliminary

#### 175      Definitions for div 3

In this division—

*information-giver* see section 180(1).

*MDL* means mineral development licence under the Mineral Resources Act.

*MDL applicant* see section 176(2)(c).

*MDL application* see section 176(1)(b).

*overlapping land* see section 176(1).

*recipient* see section 180(1).

#### 176      Application of div 3

- (1) This division applies if, before 31 December 2004, a lease was granted and when it was granted its area included any of the following land (*overlapping land*)—
  - (a) land in the area of an MDL that is a coal or oil shale exploration tenement;
  - (b) land the subject of an application (the *MDL application*) under the Mineral Resources Act for an MDL made but not decided before 31 December 2004 if the MDL applied for would, if granted, be a coal or oil shale exploration tenement.
- (2) However, this division does not apply, or ceases to apply, if—
  - (a) the same person holds the lease and the MDL; or
  - (b) the overlapping land ceases to be in the area of the lease or the MDL or to be subject to the MDL application; or

- (c) the person who made the MDL application (the **MDL applicant**) is also the lessee; or
- (d) the MDL application is rejected; or
- (e) the MDL holder or the MDL applicant has agreed in writing with the lessee that this division does not apply.

## Subdivision 2 Additional provisions

### 177 Obligation of lessee to give access to MDL holder

- (1) This section applies for the MDL or any MDL granted because of the MDL application.
- (2) It is a condition of the lease that the lessee must allow the MDL holder access to the overlapping land to carry out any authorised activity for the MDL if—
  - (a) the required notice has been given; and
  - (b) the carrying out of the activity—
    - (i) does not interfere with the carrying out of an authorised activity for the lease; and
    - (ii) is consistent with the safety management system under the 2004 Act for any operating plant on the overlapping land the operation of which is an authorised activity for the lease.
- (3) Subsection (2)(b) applies whether or not the operating plant has started to operate.
- (4) The condition under subsection (2) is subject to any agreement about coordinating the development of coal and petroleum in the land (a **coordinated development agreement**) made between the lessee and the MDL holder or the MDL applicant.
- (5) In this section—

**required notice** means a notice from the MDL holder to the lessee, given a reasonable period before the start of the

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authorised activity for the MDL, that states when and where the activity is proposed to be carried out.

## **178 Additional requirements for later development plans for lease**

- (1) This section imposes additional requirements for the approval of any proposed later development plan for the lease made after 31 December 2004.
- (2) However, the additional requirements do not apply if the MDL holder or the MDL applicant has made a coordinated development agreement with the lessee or has agreed in writing in relation to the proposed plan and a copy of either agreement has been lodged at—
  - (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.
- (3) The lessee must, before lodging the proposed plan under section 74Q, give the MDL holder or the MDL applicant a copy and use reasonable attempts to—
  - (a) consult with the MDL holder or the MDL applicant about the proposed plan; and
  - (b) change the proposed plan to include reasonable provisions proposed by the MDL holder or the MDL applicant that will optimise the safe and efficient production of—
    - (i) petroleum under the lease; and
    - (ii) coal or oil shale under any future mining lease over the overlapping land that may be granted to the MDL holder or the MDL applicant; and
  - (c) provide for the following in the proposed plan—
    - (i) the location and timing of the development of coal and petroleum in the overlapping land;

- (ii) the mining or production of the petroleum in a way that is consistent with the proposed mining of the coal;
  - (iii) a way for the coal to be developed in a timely way, including, for example, by appropriate periodic surrenders of parts of the lease.
- (4) However, the obligations under subsection (3)(b) and (c) apply only to the extent the provisions are commercially and technically feasible for the lessee.
- (5) Also, when the lessee lodges the proposed plan, it must be accompanied by a written notice stating each of the following—
  - (a) details of the consultation;
  - (b) the results of the consultation;
  - (c) any changes made to the proposed plan because of the consultation;
  - (d) the lessee's assessment of the potential for the lessee and the MDL holder or the MDL applicant to make a coordinated development agreement.

### **179 Minister may require further negotiation**

- (1) The Minister may, after receiving the notice under section 178(5), require the lessee to conduct negotiations with the MDL holder or the MDL applicant with a view to agreeing about changes of a type mentioned in section 178(3)(b).
- (2) The lessee must use all reasonable attempts to comply with the requirement.
- (3) If the lessee does not comply with subsection (2), the Minister may refuse to approve the lessee's proposed later development plan.

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## Subdivision 3 Confidentiality of information

### 180 Application of sdiv 3

- (1) This section 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 division requires the information-giver to give the recipient, including, for example, information given to comply with section 178(3); or
  - (b) for the purposes of this division.
- (2) However, this section 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 the lease, the MDL or any MDL granted because of the MDL application.

### 181 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 lease, MDL or MDL granted because of the MDL application; 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.

## **182 Civil remedies**

If the recipient does not comply with section 181, 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.

# **Part 11 Transitional provisions for Petroleum and Other Legislation Amendment Act 2005**

## **183 S 86 water bores**

- (1) This section 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 1923 Act 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 75Q(2).

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**184 Decommissioning wells and bores**

- (1) Until 1 July 2005, subsection (2) applies to a well or bore mentioned in section 75U instead of section 75U(4)(a).
- (2) The well or bore must be plugged and abandoned under this Act, as the Act was immediately before the commencement of this section.

**Part 12 Transitional provision for Mines and Energy Legislation Amendment Act 2008**

**185 Provision for repeal of section 19**

- (1) This section applies to an application for variation of an authority to prospect under former section 19 made but not decided before the repeal of that section.
- (2) The application is taken to be an application for approval of an amendment to the work program for the authority, made under sections 25H and 25I.
- (3) Sections 25G, 25J and 25K apply to the deciding of the application, with necessary changes.
- (4) In this section—  
*former section 19* means section 19 as in force before the commencement of this section.

**Part 13 Transitional provisions for amendments under Geothermal Energy Act 2010**

**186 Land access code prevails over conditions**

If a condition of a 1923 Act petroleum tenure is inconsistent with a mandatory provision of the land access code, the

mandatory provision prevails to the extent of the inconsistency.

### **187 Existing compensation agreements other than for notifiable road uses**

- (1) This section applies if immediately before the commencement of this section a compensation agreement under part 6K was in force.
- (2) On the commencement the agreement becomes a conduct and compensation agreement under part 6K, division 1.

### **188 Existing entry notices**

- (1) This section applies to an entry notice for the carrying out of an authorised activity for a 1923 Act petroleum tenure if the notice complied with the entry notice requirements before the commencement of this section.
- (2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.
- (3) In this section—  
*entry notice requirements* means the requirements under this Act relating to the giving of an entry notice.

### **189 References to geothermal tenure**

Until the *Geothermal Energy Act 2010*, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.

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## **Part 14**                      **Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012**

### **Division 1**                      **Preliminary**

#### **190**      **Definitions for pt 14**

In this part—

*amending Act* means the *Mines Legislation (Streamlining) Amendment Act 2012*.

*commencement* means the commencement of the section in which the term is used.

*former*, in relation to a provision, means the provision as in force before the commencement of the section in which the term is used.

### **Division 2**                      **Transitional provisions for amendments in amending Act commencing on assent**

#### **191**      **Land in a 1923 Act petroleum tenure's area taken before the commencement**

(1) This section applies if—

- (a) land in a 1923 Act petroleum tenure's area was taken under a resumption law before the commencement; and
- (b) at the commencement, the entity taking the land has not taken action indicating the 1923 Act petroleum tenure was extinguished (wholly or partly) when the land was taken.

*Examples of action for paragraph (b)—*

- serving a copy of the resumption notice for the taking of the land on the 1923 Act petroleum tenure holder (in the holder's capacity as the holder of the tenure)
  - entering into a resumption agreement under the ALA with the 1923 Act petroleum tenure holder for the taking of the land
  - negotiating, or taking other action relating to, the compensation payable to the 1923 Act petroleum tenure holder for the taking of the land
  - paying compensation to the 1923 Act petroleum tenure holder for the taking of the land
  - arranging for the taking of the land to be recorded in the petroleum register against the 1923 Act petroleum tenure
- (2) The taking of the land did not extinguish (wholly or partly) the 1923 Act petroleum tenure or any other 1923 Act petroleum interest relating to the tenure.
- (3) Subsection (2) does not affect the ending of a 1923 Act petroleum interest (wholly or partly) in any other way, including, for example—
- (a) by the entity taking the land acquiring the 1923 Act petroleum interest (wholly or partly) under a separate commercial agreement or other arrangement with the holder of the interest; or
  - (b) by the 1923 Act petroleum interest holder surrendering the interest (wholly or partly) under this Act.

**192 Land in a 1923 Act petroleum tenure's area for which notice of intention to resume given before the commencement**

- (1) This section applies if—
- (a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a 1923 Act petroleum tenure's area; and

- (b) at the commencement, the land had not been taken under the resumption law.
- (2) If the land is taken other than by taking or otherwise creating an easement, sections 124A to 124C apply in relation to the taking, except that the resumption notice for the taking may provide for the extinguishment of a 1923 Act petroleum interest on the taking even if the notice of intention to resume does not comply with section 124A(8).
- (3) If the land is taken by taking or otherwise creating an easement, section 124C applies in relation to the taking.

### **Division 3**                      **Transitional provisions for amendments in amending Act commencing by proclamation**

#### **193 Minister to decide particular applications for or about leases**

- (1) This section applies if—
  - (a) before the commencement, an application was made for—
    - (i) the grant of a lease under section 40; or
    - (ii) the renewal of a lease under section 45; and
  - (b) the Governor in Council has not decided the application.
- (2) The Minister must decide the application—
  - (a) for the grant of a lease—under section 40, as amended by the amending Act; or
  - (b) for the renewal of a lease—under section 45, as amended by the amending Act.

#### **194 Unfinished indications about approval of dealing**

- (1) This section applies if—

- (a) a party to a proposed dealing made a request to the Minister under former section 80H; and
  - (b) the Minister had not given the party an indication before the commencement.
- (2) The Minister may continue to consider the request and give an indication under former section 80H as if the section had not been repealed by the amending Act.

### **195 Undecided applications for approval of dealing**

- (1) This section applies if—
- (a) a holder of a 1923 Act petroleum tenure or interest made an application for approval of a dealing under former section 80I; and
  - (b) the Minister had not granted or refused the approval before the commencement.
- (2) Despite the replacement of former part 6N by the amending Act—
- (a) the Minister may continue to deal with the application; and
  - (b) former sections 80J and 80K apply to the Minister's decision about the application.

### **196 Deciding applications for approval of assessable transfers until commencement of particular provisions**

- (1) This section applies until the commencement of the *Environmental Protection Act 1994*, chapter 5A, part 4 as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.
- (2) Former section 80J(2)(a) continues in force instead of section 80KC(4)(a), as inserted by the amending Act, for deciding whether to give an approval of an assessable transfer.

**197 Uncommenced appeals about refusal to approve particular dealing**

- (1) This section applies to a person if—
  - (a) before the commencement, the person could have appealed to the Land Court under section 104 in relation to a refusal to approve a dealing under former section 80J(1); but
  - (b) the person had not started the appeal before the commencement.
- (2) Despite the amendment of the schedule by the amending Act, the person continues to be a person who may start an appeal under section 104, subject to sections 105 and 106.

**198 Unfinished appeals about refusal to approve particular dealing**

- (1) This section applies if, before the commencement—
  - (a) a person started an appeal under section 106 in relation to a refusal to approve a dealing under former section 80J(1); and
  - (b) the Land Court had not yet decided the appeal.
- (2) The Land Court may continue, under part 7, to grant a stay of the decision being appealed, and hear and decide the appeal.

**Part 15 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013**

**199 Definitions for pt 15**

In this part—

*commencement* means the commencement of the provision in which the word appears.

*previous*, for a provision of this Act, means the provision as in force immediately before the commencement.

## **200 Continuation of conversion of well**

- (1) This section applies if, immediately before the commencement, a 1923 Act petroleum tenure holder was converting a well to a water supply bore under section 75L.
- (2) On the commencement, previous part 6D, division 2 continues to apply to the holder until the well is converted to a water supply bore.

## **201 Drilling water observation bores or water supply bores**

- (1) This section applies if immediately before the commencement a person, other than a licensed water bore driller, was drilling a water observation bore or water supply bore under section 75K.
- (2) On the commencement, previous section 75K continues to apply to the person until the water observation bore or water supply bore is completed.

## **202 Converting wells to water supply bores**

- (1) This section applies if, immediately before the commencement—
  - (a) a 1923 Act petroleum tenure holder was converting a well to a water supply bore under section 75L; and
  - (b) the holder was not converting the well as allowed under section 200.
- (2) On the commencement—
  - (a) the holder is taken to be converting the well to a water supply bore under new section 75L; and
  - (b) new part 6D, division 2 applies.
- (3) In this section—

*new part 6D, division 2* means part 6D, division 2 as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

*new section 75L* means section 75L as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

**203 Minister's consent required for particular transfers of water observation bores or water supply bores to landowners**

- (1) This section applies if—
  - (a) before the commencement, a 1923 Act petroleum tenure holder lodged a notice under section 75Q(2)(b) to transfer a water observation bore or water supply bore; and
  - (b) immediately before the commencement, the Minister's consent to the transfer had not been given.
- (2) On the commencement, previous section 75Q(3) continues to apply to the transfer.

*Note—*

Under previous section 75Q(3), the approved form required the signed consent of the Minister and the landowner to the transfer.

**204 Statement on approved form under s 75Q if bore drilled or well converted before the commencement**

- (1) This section applies if a 1923 Act petroleum tenure holder or a water monitoring authority holder is transferring, under section 75Q—
  - (a) a water observation bore or water supply bore drilled under previous section 75K; or
  - (b) a water supply bore converted from a well under previous section 75L.
- (2) The requirement under section 75Q(4)(a) is taken to be satisfied if the holder gives the chief executive a signed notice stating—

- (a) if the bore has been drilled under previous section 75K—previous section 75K has been complied with for the bore; or
- (b) if the bore has been converted from a well under previous section 75L—previous section 75L has been complied with for the bore.

**205 Statement on approved form under s 75S if water observation bore drilled before the commencement**

- (1) This section applies if a 1923 Act petroleum tenure holder, a 2004 Act petroleum tenure holder or a water monitoring authority holder is transferring, under section 75S, a water observation bore drilled under previous section 75K or the pre-amended 2004 Act, section 282.
- (2) The requirement under section 75S(2) is taken to be satisfied if the holder gives the chief executive a signed notice stating—
  - (a) if the bore has been drilled under previous section 75K—previous section 75K has been complied with for the bore; or
  - (b) if the bore has been drilled under the pre-amended 2004 Act, section 282—the pre-amended 2004 Act, section 282 has been complied with for the bore.
- (3) In this section—

*pre-amended 2004 Act* means the 2004 Act as in force before the commencement.

## Part 16 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

### 206 Continued appeal right for particular decisions

(1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 104(1), may still appeal against the decision, in compliance with part 7, despite the amendment of the schedule by the Common Provisions Act.

(2) In this section—

*previous*, for a provision of this Act, means the provision as in force immediately before the repeal of the provision under the Common Provisions Act.

*relevant decision* means any of the following—

- (a) a decision to give a road use direction under previous section 79(1);
- (b) the imposition of condition on entry on public land under previous section 79L(1), other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder;
- (c) a refusal to approve an assessable transfer under previous section 80KC;
- (d) a decision to require security as prescribed in previous section 80KD.

### 207 Existing practice manuals

(1) A practice manual kept under former section 142 continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

(2) In this section—

*former section 142* means section 142 as in force immediately before the commencement of this section.

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## Schedule                      Decisions subject to appeal

section 104(1)

<b>Section reference</b>	<b>Description of decision</b>
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### **Authorities to prospect**

25E	refusal to approve proposed later work program
25J	refusal to approve amendment to work program
25O	refusal of renewal application

### **Leases**

53E	refusal to approve proposed later development plan
53F	deferral of approval of later development plan

### **Water monitoring authorities**

75WN	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
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### **Common provisions**

78CL	decision about whether proposed provision for safety management system is reasonable
78E	decision to require security
78F	decision to require additional security

<b>Section reference</b>	<b>Description of decision</b>
80T	decision to take noncompliance action
101(2)	decision to take action to ensure compliance with a requirement under this Act of a 1923 Act petroleum tenure holder, other than action to which the holder has agreed

### **Decisions under Common Provisions Act**

19(3)	decision to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions
21(2)	decision to require security
23(3)	decision to refuse to give indicative approval, or to give indicative approval with conditions
59(2)	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder
59(7)	variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant 1923 Act petroleum tenure holder
64(1)	decision to give road use direction