



Queensland

Mineral, Water and Other Legislation Amendment Act 2018

Act No. 24 of 2018

An Act to amend the Coal Mining Safety and Health Act 1999, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Mineral Resources Regulation 2013, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004 and the Water Act 2000 for particular purposes

[Assented to 25 October 2018]

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mineral, Water and Other Legislation Amendment Act 2018*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 10 to 14 and 17(2);
- (b) sections 25 to 29;
- (c) section 31(1) to the extent it omits the definitions *election notice*, first and second occurring;
- (d) section 31(2) to the extent it inserts the definition *conference election notice*;
- (e) part 5, other than the following—
 - sections 32, 36, 56 to 62 and 66;
 - section 67(2) to the extent it inserts the definition *party*;
- (f) sections 142 to 147;
- (g) section 164(1);
- (h) section 164(2) to the extent it inserts the definitions *conference election notice*, *owner* and *transfer*;
- (i) section 180(1) to the extent it omits the definition *election notice*;
- (j) section 180(2) to the extent it inserts the definition *conference election notice*;

5 Amendment of s 64C (Application of div 3A)

Section 64C(1)—

omit, insert—

- (1) This division applies to a coal mine if—
 - (a) coal mining operations at the coal mine are carried out, or are to be carried out, in any of the following areas (each an ***overlapping area***)—
 - (i) the area of—
 - (A) a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (B) an authority to prospect, petroleum lease, or water monitoring authority, under the *Petroleum Act 1923*;
 - (ii) an area adjacent to an area mentioned in subparagraph (i);
 - (iii) the area of a petroleum resource authority to which the Common Provisions Act, chapter 4 applies; and
 - (b) the coal mining operations physically affect, or may physically affect, the safety of persons or plant in the overlapping area.

6 Insertion of new pt 20, div 6

Part 20—

insert—

Division 6

**Transitional provision for
Mineral, Water and Other
Legislation Amendment
Act 2018**

[s 6]

306 Requirement for joint interaction management plan relating to overlapping authority to prospect, petroleum lease, or water monitoring authority, under 1923 Act

- (1) This section applies in relation to coal mining operations carried out in an overlapping area if an authority relating to the overlapping area is an authority to prospect, petroleum lease, or water monitoring authority, under the *Petroleum Act 1923*.
- (2) The overlapping safety plan applying in relation to the coal mining operations is taken to be a joint interaction management plan for the purposes of section 64E(1)(a).
- (3) Subsection (2) applies until a joint interaction management plan is made under section 64E for the coal mining operations.
- (4) The site senior executive for the coal mine responsible for making a joint interaction management plan under section 64E must—
 - (a) make reasonable attempts to consult with the operator of each authorised activities operating plant, as mentioned in section 64E(1)(b)(i), within 2 months after the commencement; and
 - (b) if the site senior executive seeks to rely on section 64E(2)—give the operator of each authorised activities operating plant a copy of the proposed plan, as mentioned in that subsection, within 2 months after the commencement.
- (5) In this section—

overlapping safety plan, applying in relation to coal mining operations, means the part of the safety and health management system applying in relation to the coal mining operations that deals

with hazards and risks relating to carrying out activities in an overlapping area.

7 Amendment of sch 3 (Dictionary)

Schedule 3, definition *overlapping area*, ‘the Common Provisions Act, section 104’—

omit, insert—

section 64C(1)(a)

Part 3 Amendment of Geothermal Energy Act 2010

8 Act amended

This part amends the *Geothermal Energy Act 2010*.

9 Amendment of s 201 (Right of entry to facilitate decommissioning)

(1) Section 201(3), ‘Parts 5, 6 and 8’—

omit, insert—

Section 233 and the Common Provisions Act, chapter 3, parts 2, 3 and 7

(2) Section 201(3), editor’s note—

omit.

10 Amendment of s 312 (Application of pt 1)

Section 312(1), ‘an election notice’—

omit, insert—

a conference election notice

[s 11]

11 Amendment of s 313 (Calling conference)

(1) Section 313(1), ‘an election notice’—

omit, insert—

a conference election notice

(2) Section 313(1), from ‘about’ to ‘agreement’—

omit.

12 Amendment of s 315 (What happens if a party does not attend)

(1) Section 315(1), ‘the conference’—

omit, insert—

a conference under section 313(2)

(2) Section 315(2), note—

omit.

13 Amendment of s 316 (Authorised officer’s role)

Section 316(2), ‘section 89’—

omit, insert—

section 83B

14 Amendment of s 318 (Agreement made at conference)

Section 318(2)—

omit.

15 Omission of s 354 (Replacement of instrument for geothermal tenure)

Section 354—

omit.

16 Amendment of sch 1 (Decisions subject to appeal)

Schedule 1, entry for section 354—

omit.

17 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *second authority* and *waiver of entry notice*—

omit.

(2) Schedule 2—

insert—

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

Part 4 Amendment of Greenhouse Gas Storage Act 2009

18 Act amended

This part amends the *Greenhouse Gas Storage Act 2009*.

19 Amendment of s 137 (Minister's power to decide excluded land)

(1) Section 137(3)(a)—

omit, insert—

(a) must be within any sub-block included in the area of the GHG lease; and

(2) Section 137(4), 'the instrument'—

omit, insert—

the register

(3) Section 137(4), after 'the reference to the block'—

[s 20]

insert—

in the register

20 Amendment of s 238 (Key authorised activities)

Section 238, notes, item 1, from ‘parts 7’ to ‘authorised activities’—

omit, insert—

part 12 and the Common Provisions Act, chapter 3, part 2, division 4

21 Amendment of s 268 (Right of entry to facilitate decommissioning for GHG permit)

Section 268(3), from ‘Parts 7’ to ‘division 1 apply’—

omit, insert—

The Common Provisions Act, chapter 3, parts 2 and 3 and part 7 (other than division 3) applies

22 Amendment of s 328 (Operation of div 1)

Section 328, notes, item 1, fourth dot point—

omit.

23 Amendment of s 335 (Authorisation to enter to facilitate compliance)

Section 335(2), from ‘Parts 7’ to ‘authorisation’—

omit, insert—

Sections 20 and 331 and the Common Provisions Act, chapter 3, part 2 (other than division 5) and parts 3 and 7 apply to the former holder of the authority

-
- 24 Omission of s 375 (Replacement of instrument for GHG authority)**
Section 375—
omit.
- 25 Amendment of s 377A (Application of pt 1A)**
Section 377A(1), ‘an election notice’—
omit, insert—
a conference election notice
- 26 Amendment of s 377B (Calling conference)**
(1) Section 377B(1), ‘an election notice’—
omit, insert—
a conference election notice
(2) Section 377B(1), from ‘about’ to ‘agreement’—
omit.
- 27 Amendment of s 377D (What happens if a party does not attend)**
(1) Section 377D(1), ‘the conference’—
omit, insert—
a conference under section 377B(2)
(2) Section 377D(2), note—
omit.
- 28 Amendment of s 377E (Authorised officer’s role)**
Section 377E(2), ‘section 89’—
omit, insert—
section 83B

[s 29]

29 Amendment of s 377G (Agreement made at conference)

Section 377G(2)—

omit.

30 Amendment of sch 1 (Decisions subject to appeal)

Schedule 1, entry for section 375—

omit.

31 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *election notice*, first and second occurring and *pipeline land*—

omit.

- (2) Schedule 2—

insert—

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

pipeline land, for a GHG tenure, means land on which pipelines are or may be constructed or operated under the tenure if the land is identified as pipeline land in any of the following—

- (a) the register;
- (b) the instrument for the tenure;
- (c) if the tenure is a GHG permit—the work program for the tenure;
- (d) if the tenure is a GHG lease—the development plan for the tenure.

Part 5 **Amendment of Mineral and Energy Resources (Common Provisions) Act 2014**

32 Act amended

This part amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

33 Amendment of s 43 (Carrying out advanced activities on private land requires agreement)

(1) Section 43(1)(d)—

omit, insert—

(d) is a party to—

- (i) an arbitration under part 7, division 2, subdivision 3A; or
- (ii) an application to the Land Court under section 96.

(2) Section 43—

insert—

(2A) This section does not limit the requirement under section 39 for a person to give an entry notice about the entry to private land for a purpose mentioned in section 38.

(3) Section 43(2A) and (3)—

renumber as section 43(3) and (4).

34 Amendment of s 44 (Deferral agreements)

Section 44(2), ‘if is’—

omit, insert—

if it

[s 35]

35 Amendment of s 45 (Right to elect to opt out)

Section 45(4)(c), ‘the parties or’—

omit, insert—

a party

36 Amendment of s 70 (Consent required for entry on restricted land)

Section 70—

insert—

- (5) This section does not apply to restricted land for a mining claim or mining lease under the Mineral Resources Act.

37 Amendment of s 79 (Written access agreement binds successors and assigns)

Section 79, from ‘it’—

omit, insert—

the agreement, and each of their successors and assigns.

38 Replacement of s 81 (General liability to compensate)

Section 81—

omit, insert—

81 General liability to compensate

- (1) A resource authority holder is liable to compensate the following persons (each an *eligible claimant*) for each compensatable effect suffered by the eligible claimant because of the holder—

- (a) an owner or occupier of private land that is—

-
- (i) in the authorised area of the resource authority; or
 - (ii) access land for the resource authority;
- (b) an owner or occupier of public land that is—
- (i) in the authorised area of the resource authority; or
 - (ii) access land for the resource authority.
- (2) The resource authority holder's liability to compensate an eligible claimant under subsection (1) is the resource authority holder's ***compensation liability*** to the eligible claimant.
- (3) This section does not apply to a public road authority for a notifiable road use.
- (4) In this section—
- compensatable effect***, suffered by an eligible claimant because of a resource authority holder, means—
- (a) any of the following caused by the holder, or a person authorised by the holder, carrying out authorised activities on the eligible claimant's land—
 - (i) deprivation of possession of the land's surface;
 - (ii) diminution of the land's value;
 - (iii) diminution of the use made, or that may be made, of the land or any improvement on it;
 - (iv) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (v) any cost, damage or loss arising from the carrying out of activities under the resource authority on the land; and

[s 39]

- (b) consequential loss incurred by the eligible claimant arising out of a matter mentioned in paragraph (a).

39 Amendment of ch 3, pt 7, div 2, hdg (Provisions for conduct and compensation agreements)

Chapter 3, part 7, division 2, heading, ‘Provisions for conduct’—

omit, insert—

Conduct

40 Amendment of ch 3, pt 7, div 2, sdiv 1, hdg (Application of div 2)

Chapter 3, part 7, division 2, subdivision 1, heading, ‘of div 2’—

omit, insert—

of division

41 Amendment of ch 3, pt 7, div 2, sdiv 2, hdg (Conduct and compensation agreement)

Chapter 3, part 7, division 2, subdivision 2, heading, ‘Conduct’—

omit, insert—

Making of conduct

42 Insertion of new ch 3, pt 7, div 2, sdiv 2A

Chapter 3, part 7, division 2—

insert—

Subdivision 2A Conferences with an authorised officer

83A Party may request conference

- (1) This section applies if a dispute arises about a matter mentioned in section 83(1)(a), (b) or (c).
- (2) Either the resource authority holder or eligible claimant (each a *party*) may give a notice (a *conference election notice*) to the other party requesting the other party to participate in a conference conducted by an authorised officer to seek to negotiate a resolution of the dispute.
- (3) The conference election notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) any other information prescribed by regulation.
- (4) However, a conference election notice may not be given under subsection (1) if an ADR election notice or arbitration election notice has already been given about the matters the subject of the dispute.

83B Conduct of conference

- (1) This section applies if a conference election notice is given under section 83A.
- (2) The conference must be conducted under the prescribed requirements.
- (3) The authorised officer conducting the conference must take all reasonable steps to hold the conference within 20 business days after the conference election notice is given (the *usual period*).
- (4) A party may, within the usual period, ask the other party for a longer period because of stated reasonable or unforeseen circumstances.
- (5) If the parties agree to a longer period, and the

[s 43]

authorised officer consents to the longer period, the longer period applies instead of the usual period.

- (6) If a party gives the other party an ADR election notice, or arbitration election notice, about a matter mentioned in section 83A(3)(a), the conference ends.
- (7) Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

43 Amendment of ch 3, pt 7, div 2, sdiv 3, hdg (Negotiation process)

Chapter 3, part 7, division 2, subdivision 3, heading, 'process'—

omit, insert—

and ADR

44 Amendment of s 85 (Negotiations)

Section 85(1), '(a *relevant agreement*)'—

omit.

45 Amendment of s 86 (No entry during minimum negotiation period)

- (1) Section 86, heading, after 'entry'—

insert—

to land

- (2) Section 86(1), 'relevant agreement'—

omit, insert—

conduct and compensation agreement or a deferral agreement

46 Replacement of ss 88–91

Sections 88 to 91—

omit, insert—

88 Party may seek ADR

- (1) This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement relating to a dispute about a matter mentioned in section 83(1).
- (2) Either party may give a notice (an **ADR election notice**) to the other party requiring the other party to participate in a non-binding alternative dispute resolution process (an **ADR**) to seek to negotiate a resolution of the dispute.
- (3) The ADR may be a non-binding process of any type, including, for example, a case appraisal, conciliation, mediation or negotiation.
- (4) The ADR election notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) the type of ADR proposed; and
 - (c) the name of an ADR facilitator, who is independent of both parties, proposed to conduct the ADR; and
 - (d) that the resource authority holder is liable for the costs of the ADR facilitator; and
 - (e) any other information prescribed by regulation.
- (5) A party given an ADR election notice must, within 10 business days after the notice is given, accept or refuse the type of ADR, and the ADR facilitator, proposed in the notice.
- (6) If the party given an ADR election notice does not

[s 46]

accept, under subsection (5), the type of ADR or ADR facilitator proposed in the notice, the party giving the notice may make another proposal, or obtain a decision from the Land Court or a prescribed ADR institute, about the matter not accepted.

- (7) If a party obtains a decision under subsection (6) from the Land Court or a prescribed ADR institute, the party must give the other party notice of the decision.
- (8) The *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if—
 - (a) a reference to an ADR process included a reference to the ADR; and
 - (b) a reference to an ADR convenor included a reference to the ADR facilitator.

89 Conduct of ADR

- (1) This section applies if an ADR election notice is given under section 88.
- (2) The parties must use all reasonable endeavours to negotiate a resolution of the dispute by entering into a conduct and compensation agreement within 30 business days after the ADR facilitator is appointed (the *usual period*).
- (3) A party may, within the usual period, ask the other party for a longer period because of stated reasonable or unforeseen circumstances.
- (4) If the parties agree to a longer period, and the ADR facilitator consents to the longer period, the longer period applies instead of the usual period.
- (5) Nothing said by a person at the ADR is admissible in evidence in a proceeding without the person's consent.

- (6) The resource authority holder is liable for the costs of the ADR facilitator.

90 Non-attendance at ADR

- (1) This section applies if—
 - (a) a party given an ADR election notice (the *non-attending party*) does not attend the ADR; and
 - (b) another party (the *attending party*) attends the ADR.
- (2) The non-attending party is liable to pay the attending party's reasonable costs of attending.
- (3) The attending party may apply to the Land Court for an order requiring the payment of the costs.
- (4) The Land Court may order the payment of the costs only if the court is satisfied the non-attending party did not have a reasonable excuse for not attending.

91 Recovery of negotiation and preparation costs

- (1) This section applies if an eligible claimant necessarily and reasonably incurs negotiation and preparation costs in entering or seeking to enter into a conduct and compensation agreement or deferral agreement with a resource authority holder.
- (2) The resource authority holder is liable to pay to the eligible claimant the negotiation and preparation costs necessarily and reasonably incurred.

Subdivision 3A Arbitration

91A Party may request arbitration

- (1) This section applies if—
 - (a) a party has given a negotiation notice to another party seeking to negotiate the resolution of a dispute and at the end of the minimum negotiation period, the parties have not negotiated a conduct and compensation agreement or deferral agreement; or
 - (b) a party has given an ADR election notice to another party seeking to negotiate the resolution of a dispute and at the end of the period applying under section 89(2) or (4), the parties have not entered into a conduct and compensation agreement.
- (2) Either party may give a notice (an *arbitration election notice*) to the other party requesting the other party to participate in an arbitration to decide the dispute.
- (3) The arbitration election notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) the name of an arbitrator, who is independent of both parties, proposed to conduct the arbitration; and
 - (c) that, if the request for arbitration is accepted, an application to the Land Court under section 96 for a decision about the dispute can not be made; and
 - (d) that the costs of the arbitration are payable by the parties as mentioned in section 91E; and
 - (f) any other information prescribed by regulation.
- (4) A party given an arbitration election notice must,

within 15 business days after the notice is given, accept or refuse the request for arbitration.

- (5) If the request for arbitration is accepted under subsection (4), the parties may, within 10 business days after the acceptance, jointly appoint the arbitrator proposed under subsection (3)(b), or another arbitrator, to conduct the arbitration.
- (6) If the parties do not, under subsection (5), jointly appoint an arbitrator, the party giving the arbitration election notice must require a prescribed arbitration institute to appoint an arbitrator, who is independent of both parties, to conduct the arbitration.
- (7) A prescribed arbitration institute does not incur any civil monetary liability for an act or omission in the performance, or purported performance, of a function under subsection (6) unless the act or omission is done or made in bad faith or through negligence.
- (8) In this section—

prescribed arbitration institute means an entity for appointing arbitrators that is prescribed by regulation.

91B Arbitrator's functions

- (1) The arbitrator has authority to decide the dispute by the issuance of an award.
- (2) However, the arbitrator may decide a matter the subject of the dispute only to the extent it is not subject to a conduct and compensation agreement between the parties.
- (3) The award must be made within 6 months after the appointment of the arbitrator.

91D Application of Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* applies to the arbitration to the extent it is not inconsistent with this subdivision.

91E Costs of arbitration

- (1) If, before the appointment of the arbitrator, the parties have not participated in an ADR about the dispute, the resource authority holder is liable to pay the fees and expenses of the arbitrator.
- (2) If, before the appointment of the arbitrator, the parties have participated in an ADR about the dispute, the parties are liable to pay the fees and expenses of the arbitrator in equal shares unless the parties agree, or the arbitrator decides, otherwise.
- (3) Other than as provided under subsection (1) or (2), each party to an arbitration must bear the party's own costs for the arbitration unless the parties agree, or the arbitrator decides, otherwise.

91F Effect of arbitrator's decision

- (1) The arbitrator's decision is final.
- (2) The parties may not apply for review of, or appeal against, the decision.
- (3) The arbitrator's decision does not limit or otherwise affect a power of the Supreme Court to decide a decision of the arbitrator is affected by jurisdictional error.
- (4) The arbitrator's decision has the same effect as if the parties had entered into a binding and enforceable agreement to the same effect as the decision.

47 Amendment of s 92 (Particular agreements to be recorded on titles)

Section 92(11), definition *party*—

omit, insert—

party, to a conduct and compensation agreement or opt-out agreement, includes the successors and assigns of the party that are bound by the agreement under chapter 3, part 7, division 5.

48 Omission of ch 3, pt 7, div 4 (Changes not affecting compensation)

Chapter 3, part 7, division 4—

omit.

49 Amendment of ch 3, pt 7, div 5, hdg (Land Court jurisdiction for compensation and conduct)

Chapter 3, part 7, division 5, heading, from ‘for’—

omit.

50 Replacement of ch 3, pt 7, div 5, sdiv 1, hdg (Negotiation process)

Chapter 3, part 7, division 5, subdivision 1, heading—

omit, insert—

Subdivision 1 Conduct and compensation

51 Renumbering of ch 3, pt 7, div 5

Chapter 3, part 7, division 5—

renumber as chapter 3, part 7, division 4.

[s 52]

52 Replacement of s 96 (Land Court may decide if negotiation process unsuccessful)

Section 96—

omit, insert—

96 Party may apply to Land Court

- (1) This section applies if—
 - (a) a party has given an ADR election notice to another party seeking to negotiate the resolution of a dispute; and
 - (b) at the end of the period applying under section 89(2) or (4) for negotiating a resolution of the dispute, the parties have not entered into a conduct and compensation agreement; and
 - (c) an arbitration election notice about the dispute has not been given, or a request for arbitration about the dispute has not been accepted under section 91A(4), by the parties.
- (2) Either party may apply to the Land Court to decide the dispute.
- (3) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement between the parties.

96A Applications may be heard together

- (1) This section applies if an eligible claimant has brought a proceeding in the Land Court for the payment by a resource authority holder of compensation under the Environmental Protection Act.
- (2) The Land Court may hear together the application and an application under section 96 by the eligible

claimant or resource authority holder if the Land Court considers it desirable in the interests of justice.

96B Negotiation and preparation costs

- (1) A party may apply to the Land Court for—
 - (a) a declaration that all or part of stated costs are payable under section 91; or
 - (b) if the party is an eligible claimant—an order requiring the payment of negotiation and preparation costs under section 91.
- (2) The Land Court may, in a proceeding mentioned in subsection (1) or a proceeding brought under section 96, make a declaration about, or an order for the payment of, negotiation and preparation costs under section 91.
- (3) However, if the costs are the costs of an agronomist, the Land Court can not make an order or declaration in relation to the costs unless the agronomist is appropriately qualified to perform the function for which the costs are incurred.

53 Amendment of s 97 (Orders Land Court may make)

- (1) Section 97(2)(c), from ‘attend’ to ‘or’—
omit.
- (2) Section 97—
insert—
- (3) In considering whether to make an order under subsection (2)(c), the Land Court may have regard to the behaviour of the parties in the process leading to the application.

[s 54]

54 Amendment of s 98 (Additional jurisdiction for compensation, conduct and related matters)

- (1) Section 98(1)(b)—
omit.
- (2) Section 98(1)(c)—
renumber as section 98(1)(b).

55 Insertion of new ch 3, pt 7, div 5

After section 101—

insert—

Division 5 Successors and assigns

101A Agreement binding on successors and assigns

- (1) This section applies to each of the following agreements—
 - (a) a conduct and compensation agreement;
 - (b) an opt-out agreement;
 - (c) a road compensation agreement.
- (2) The agreement binds the parties to the agreement, and each of their successors and assigns.

101B Land Court decision binding on successors and assigns

- (1) This section applies to a decision of the Land Court under division 4.
- (2) The decision binds the parties in the proceeding that led to the decision, and each of their successors and assigns.

101C Arbitrator's decision binding on successors and assigns

- (1) This section applies to a decision of an arbitrator under division 2, subdivision 3A.
- (2) The decision binds the parties to the arbitration that led to the decision, and each of their successors and assigns.

56 Amendment of s 175 (Application of div 4)

Section 175, 'resource authority holders'—
omit, insert—
persons (each a *party*)

57 Amendment of s 176 (Definition for div 4)

- (1) Section 176, heading, 'Definition'—
omit, insert—

Definitions

- (2) Section 176—
insert—
party see section 175.

58 Amendment of s 177 (Nomination of arbitrator)

- (1) Section 177(1), 'resource authority holder'—
omit, insert—
party
- (2) Section 177(1), 'resource authority holders'—
omit, insert—
parties

[s 59]

59 Amendment of s 179 (Expert appointed by arbitrator)

- (1) Section 179(1)(c) and (2), ‘resource authority holder’—
omit, insert—
party to the arbitration
- (2) Section 179(2), ‘resource authority holders’—
omit, insert—
parties to the arbitration

60 Amendment of s 181 (Costs of arbitration)

- Section 181(1), ‘resource authority holders’—
omit, insert—
parties to the arbitration

61 Amendment of s 182 (Effect of arbitrator’s decision)

- (1) Section 182(2), ‘resource authority holders’—
omit, insert—
parties to the arbitration
- (2) Section 182(4), ‘between resource authority holders’—
omit, insert—
between the parties to the arbitration
- (3) Section 182(4), ‘the resource authority holders’—
omit, insert—
the parties

62 Amendment of s 183 (Copy of award and reasons for award)

- Section 183, ‘resource authority holders’—
omit, insert—

parties to the arbitration

63 Amendment of ch 7, hdg (Savings and transitional provisions for 2014 Act No. 47)

Chapter 7, heading, ‘for 2014 Act No. 47’—

omit, insert—

for Act No. 47 of 2014

64 Replacement of ch 8, hdg (Transitional provision for Land Access Ombudsman Act 2017)

Chapter 8, heading—

omit, insert—

Chapter 8 Further transitional provisions

Part 1 Transitional provision for Land Access Ombudsman Act 2017

65 Insertion of new ch 8, pt 2

Chapter 8—

insert—

Part 2 Transitional provisions for Mineral, Water and Other Legislation Amendment Act 2018

245 Election notice

- (1) This section applies if, before the commencement—
 - (a) a party gave, under section 88 as in force before the commencement, another party an election notice—
 - (i) asking for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or
 - (ii) calling upon the party to agree to an ADR to negotiate a conduct and compensation agreement; and
 - (b) the conference was not finished under section 89 as in force before the commencement, or the ADR was not finished under section 90 as in force before the commencement.
- (2) The Act, as in force immediately before the commencement, continues to apply in relation to—
 - (a) the conference or ADR; and
 - (b) any proceeding in the Land Court, whether started before or after the commencement, that relates to the concerns the subject of the conference or ADR.
- (3) The new arbitration provisions do not apply in relation to the concerns the subject of the conference or ADR.
- (4) In this section—

new arbitration provisions means the provisions inserted into chapter 3 under the *Mineral, Water and Other Legislation Amendment Act 2018*.

246 Recovery of particular negotiation and preparation costs

- (1) This section applies if negotiation and preparation costs incurred by an eligible claimant under section 91(1) include the costs of an agronomist.
- (2) The resource authority holder is liable to pay to the eligible claimant, under section 91(2), the costs of the agronomist only if the costs were incurred by the eligible claimant after the commencement.
- (3) The Land Court may, under section 96B, make a declaration or order in relation to the costs of the agronomist only if the costs were incurred by the eligible claimant after the commencement.

66 Amendment of sch 1, s 6 (Forests and quarry materials)

Schedule 1, section 6(1), note—

omit.

67 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *compensation liability*, first and second occurring, *election notice* and *facilitator*—

omit.

- (2) Schedule 2—

insert—

ADR election notice see section 88(2).

ADR facilitator means a person who facilitates an ADR.

arbitration election notice see section 91A(2).

compensation liability—

- (a) for chapter 3—

[s 67]

- (i) to an eligible claimant, see section 81(2); or
- (ii) to a public road authority, see section 93(2); or
- (b) for chapter 4—
 - (i) of an ML (coal) holder to a PL holder, see section 167(3); or
 - (ii) of an ML (coal) holder to an ATP holder, see section 168(3).

conference election notice see section 83A(2).

negotiation and preparation costs—

- (a) means—
 - (i) accounting costs; or
 - (ii) legal costs; or
 - (iii) valuation costs; or
 - (iv) the costs of an agronomist; and
- (b) does not include—
 - (i) the costs of an ADR facilitator; or
 - (ii) the costs of obtaining, under section 88(6), a decision from a prescribed ADR institute or the Land Court.

party, for chapter 4, part 6, division 4, see section 175.

prescribed ADR institute means an entity for deciding a type of ADR to be conducted, or an ADR facilitator to conduct an ADR, prescribed by regulation.

successor includes a personal representative.

- (3) Schedule 2, definition *ADR*, ‘section 88(2)(b)’—

omit, insert—

section 88(2)

[s 71]

71 Amendment of s 29 (Term of prospecting permit)

Section 29(2)—

omit, insert—

- (2) A prospecting permit's term must not start before the day the permit is granted.

72 Amendment of s 32 (Notice of entry under parcel prospecting permit)

Section 32(4) to (6)—

omit, insert—

- (4) However, subsection (1) does not apply to a parcel prospecting permit holder if—
 - (a) the holder satisfies the chief executive it is impracticable to give either the owner or occupier notice of the intended entry; and
 - (b) the chief executive decides to not require the holder to give notice of the intended entry; and
 - (c) the chief executive's decision is recorded in the register.
- (5) Before recording the decision in the register, the chief executive may require the holder to take the action the chief executive considers appropriate to publicise the intended entry, including, for example, publishing an advertisement in a newspaper or other publication.

73 Omission of s 35 (Penalty for breach of conditions)

Section 35—

omit.

74 Amendment of s 38 (Appeals about prospecting permits)

- (1) Section 38(2)(e), note—
omit.
- (2) Section 38(2)(f)—
omit.
- (3) Section 38(2)(g)—
renumber as section 38(2)(f).

75 Replacement of s 46 (Production of prospecting permit)

Section 46—

omit, insert—

46 Producing prospecting permit

- (1) This section applies if—
 - (a) a person purports to enter or be on land under the authority of a prospecting permit; and
 - (b) the owner of the land, or an agent of the owner, asks the person for proof of the person's authority to enter or be on the land.
- (2) The person must produce the prospecting permit, or a copy of the permit, to the owner or agent.
- (3) If the person fails to comply with subsection (2), the person does not have any entitlements under this Act during the period of the person's noncompliance.
- (4) In this section—
copy, of a prospecting permit, includes an extract from the register of the details of the permit recorded in the register.

[s 76]

76 Amendment of s 47 (Staying on occupied land)

Section 47(6), ‘endorsed on the permit’—

omit, insert—

recorded in the register

77 Amendment of s 51 (Land for which mining claim not to be granted)

(1) Section 51(4)—

omit.

(2) Section 51(5)—

renumber as section 51(4).

78 Amendment of s 72 (Referral to Land Court of application and objections)

Section 72(5)—

omit, insert—

(5) If all properly made objections referred to the Land Court under subsection (2) are withdrawn under section 71A before the Land Court gives an instruction or makes a recommendation to the Minister under section 78, the Land Court may remit the matter to the chief executive.

79 Amendment of s 81 (Conditions of mining claim)

(1) Section 81(1)—

insert—

(aa) if the holder uses land outside the boundary of the area of the mining claim for access to the area of the mining claim, a condition that the holder may use the land only for the following purposes—

-
- (i) to transport, by road across the surface of the land, something that is reasonably necessary to allow the holder to carry out an authorised activity for the mining claim;
 - (ii) to transport, by road across the surface of the land, any minerals mined under the authority of a mining tenement held by the holder;
 - (iii) to construct road transport infrastructure across the surface of the land that is reasonably necessary for the purpose of transporting a thing or mineral mentioned in subparagraph (i) or (ii);
- (2) Section 81(1)(aa) to (p)—
renumber as section 81(1)(b) to (q).
- (3) Section 81(5), ‘subsection (1)(f), (h)(ii) and (m)’—
omit, insert—
subsection (1)(g), (i)(ii) and (n)

80 Amendment of s 82 (Variation of conditions of mining claim)

Section 82(5)—

omit, insert—

- (5) The chief executive must record in the register the details of every variation of a mining claim.

81 Amendment of s 85 (Compensation to be settled before grant or renewal of mining claim)

- (1) Section 85(1)(a), after ‘that land’—

insert—

[s 82]

(each an *interested party*)

(2) Section 85(4) and (5)—

omit, insert—

(4) For subsection (1)(a), an interested party may, at any time before compensation is determined by agreement, apply in writing to the Land Court to have the Land Court determine the amount of compensation.

(3) Section 85(7), from ‘subsection (5)’ to ‘section 85A(2)’—

omit, insert—

subsection (4)

(4) Section 85(8), ‘subsection (7)’—

omit, insert—

subsection (5)

(5) Section 85(8)(e), ‘subsection (7)’—

omit, insert—

subsection (5)

(6) Section 85(12)—

omit.

(7) Section 85(7) to (13)—

renumber as section 85(5) to (10).

82 Replacement of s 85A (Referral to Land Court of issue of compensation if not settled within 3 months after term of claim ends)

Section 85A—

omit, insert—

85A Deciding whether to grant mining claim if compensation not determined

(1) Subsection (2) applies if, in relation to an

application for the grant of a mining claim, compensation has not been determined as mentioned in section 85(1)(a) and an application has not been made to the Land Court as mentioned in that section by—

- (a) if no objection to the application is lodged—the day that is 3 months after the last objection day for the application; or
 - (b) if the Land Court instructs the Minister to grant the mining claim—the day that is 3 months after the day the instruction is given; or
 - (c) if the Governor in Council consents to the grant of the mining claim—the day that is 3 months after the day the consent is given.
- (2) The Minister may refuse to grant the mining claim.

83 Omission of s 88 (Issue of certificate of grant for mining claim)

Section 88—
omit.

84 Amendment of s 93 (Renewal of mining claim)

(1) Section 93—
insert—

- (2A) Within 5 business days after an application for renewal of a mining claim is made, the holder must—
- (a) give copies of the application and of any documents or information prescribed by regulation to the following persons (each *an interested party*)—

[s 84]

- (i) each owner of land the subject of the mining claim;
 - (ii) each owner of land outside the boundary of the area of the mining claim the holder intends to use to access the area of the mining claim; and
 - (b) if, in relation to the grant or renewal of the mining claim, an agreement for compensation has been made with an interested party under section 85, or the Land Court has determined the compensation for an interested party under that section—give a copy of the most recent agreement or determination to the interested party.
- (2) Section 93(3), ‘Subsection (4)’—
omit, insert—
Subsection (5)
- (3) Section 93(6) and (7), ‘subsection (4)’—
omit, insert—
subsection (5)
- (4) Section 93—
insert—
- (7A) Despite subsection (5), the Minister may also refuse the renewal if—
 - (a) compensation is to be determined as mentioned in section 85(1)(a) for the renewal of the mining claim; and
 - (b) the compensation is not determined within 3 months after the day the current term of the claim would, apart from section 93A, end; and

(c) an application has not been made to the Land Court as mentioned in section 85(4).

(5) Section 93(8), ‘subsection (5)’—

omit, insert—

subsection (6)

(6) Section 93(2A) to (11)—

renumber as section 93(3) to (13).

85 Omission of ss 103 and 104

Sections 103 and 104—

omit.

86 Amendment of s 108 (Abandonment of application for mining claim)

Section 108(2)(b), ‘mining claim application certificate’—

omit, insert—

mining claim notice

87 Amendment of s 125 (Variation of access to mining claim area)

(1) Section 125(6), ‘section 85(7) to (11)’—

omit, insert—

section 85(5) to (9)

(2) Section 125(6), ‘referred to the Land Court under section 85(5)’—

omit, insert—

made to the Land Court under section 85(4)

(3) Section 125(11)—

omit.

[s 88]

88 Amendment of s 136B (Application and operation of pt 3)

Section 136B(1)(b)—

insert—

- (iii) to a person in relation to a coal mining project under division 5.

89 Insertion of new ch 4, pt 3, div 5

Chapter 4, part 3—

insert—

Division 5 Obtaining exploration permit for coal other than by competitive tender

136O Definitions for division

In this division—

coal interest means—

- (a) a coal exploration tenement; or
- (b) a coal mining lease; or
- (c) an application for a coal mining lease.

coal mining project see section 136P(1).

project land, for a coal mining project, see section 136P(2).

136P Meaning of *coal mining project* and *project land*

- (1) A *coal mining project* is 1 or more coal interests that is or includes a coal mining lease, or an application for a coal mining lease, if authorised activities for the coal interest or interests are or will be carried out as a single integrated operation.

- (2) ***Project land*** for a coal mining project is land in the area of any of the following for the project—
- (a) a coal exploration tenement;
 - (b) a coal mining lease;
 - (c) a proposed coal mining lease the subject of an application for a coal mining lease.

136Q Who may apply

An eligible person may apply under this division for an exploration permit for coal for an area if—

- (a) the eligible person is the holder of, or the applicant for, a coal mining lease that is, or is included in, a coal mining project; and
- (b) the area—
 - (i) is contiguous to project land for the coal mining project; and
 - (ii) is not the subject of a coal interest or an application for a coal exploration tenement; and
 - (iii) is not more than 6 sub-blocks; and
 - (iv) is not the subject of a call for EP (coal) tenders; and
- (c) an exploration permit for coal has not previously been granted under this division in relation to the coal mining project.

136R Application

An application under this division for an exploration permit for coal in relation to a coal mining project must—

- (a) be in the approved form and lodged with the chief executive; and

[s 89]

- (b) state the name of the applicant; and
- (c) define the boundary of the area of the proposed exploration permit; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (d) be accompanied by a statement—
 - (i) describing the program of work proposed to be carried out under the authority of the exploration permit; and
 - (ii) stating the estimated human, technical and financial resources proposed to be committed to the work during each year of the exploration permit; and
 - (iii) stating how the work proposed to be carried out under the authority of the exploration permit is necessary for the operation of the coal mining project; and
- (e) be accompanied by a statement, separate from the statement mentioned in paragraph (d), detailing the applicant's financial and technical resources; and
- (f) be accompanied by—
 - (i) proof of the applicant's identity; and
 - (ii) the application fee prescribed by regulation.

136S Deciding application

- (1) The Minister may—
 - (a) grant the exploration permit for coal, with or without conditions, for all or part of the area of the proposed exploration permit; or

- (b) refuse the application.
- (2) However, the Minister must not grant the exploration permit unless the Minister is satisfied the prescribed criteria for the grant of the permit are met.
- (3) Also, the Minister must not grant the exploration permit if all or part of the area of the proposed exploration permit is in a fossicking area.
- (4) Subsection (3) does not apply if the application for the exploration permit was made but not decided before the area became a fossicking area.
- (5) Without limiting subsection (1), the Minister may refuse to grant the exploration permit if the Minister considers the grant is not in the public interest.
- (6) The Minister may grant the exploration permit for coal only if the Minister is satisfied—
- (a) the applicant is the holder of, or the applicant for, a coal mining lease that is, or is included in, a coal mining project; and
 - (b) the area of the exploration permit is contiguous to the project land for the coal mining project; and
 - (c) the area of the exploration permit is not the subject of a coal interest or an application for a coal exploration tenement; and
 - (d) the area of the exploration permit is not more than 6 sub-blocks; and
 - (e) an exploration permit for coal has not previously been granted under this division in relation to the coal mining project; and
 - (f) the exploration permit is necessary for the operation of the coal mining project; and

[s 89]

- (g) the applicant has demonstrated the financial and technical capability of carrying out the activities proposed under the exploration permit; and
 - (h) the area of the exploration permit is not identified, or likely to be identified, as land to be released for tender for coal or other minerals.
- (7) If the exploration permit is granted for only part of the area of the proposed exploration permit—
- (a) the application is taken to be refused for the remainder of the area; and
 - (b) the Minister must give the applicant written notice of the reasons for the refusal.
- (8) If the Minister refuses the application, the Minister—
- (a) must give the applicant written notice of the reasons for the refusal; and
 - (b) may refund all or part of the application fee that accompanied the application.

136T Withdrawing application

- (1) The applicant for an exploration permit may lodge a notice with the chief executive withdrawing the application in relation to all or part of the area to which it relates at any time before the grant of the exploration permit.
- (2) The withdrawal takes effect when the notice is lodged.
- (3) If an application for an exploration permit is withdrawn in relation to only part of the area to which it relates, the application must be amended to define the boundary of the area of the proposed exploration permit for which the application is to

remain in force.

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (4) If an application for an exploration permit is withdrawn under this section, the Minister may, if the Minister considers it reasonable in the circumstances, retain the whole or part of the application fee.

90 Replacement of s 137A (Content of exploration permit)

Section 137A—

omit, insert—

137A Details of exploration permit to be recorded in register

The chief executive must record in the register the following details of an exploration permit—

- (a) the identification number of the permit;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the permit is granted;
- (e) the term and date of commencement of the permit;
- (f) the conditions, other than conditions prescribed under this Act, to which the permit is subject;
- (g) the minerals the subject of the permit;
- (h) the programs of works and studies to be carried out under the permit.

[s 91]

91 Amendment of s 141 (Conditions of exploration permit)

Section 141(1)(e)—

omit, insert—

- (e) a condition that the holder must give the Minister, in the way prescribed by regulation, the reports, returns, documents and statements required to be given to the Minister under a regulation; and

92 Amendment of s 141C (Application to vary conditions of existing permit)

Section 141C(5)—

omit, insert—

- (5) The chief executive must record in the register the details of any varied conditions applying to the existing permit, including any conditions imposed as mentioned in subsection (3)(a).

93 Omission of ss 149 and 150

Sections 149 and 150—

omit.

94 Replacement of s 167 (Production of exploration permit)

Section 167—

omit, insert—

167 Producing exploration permit

- (1) This section applies if—
 - (a) a person purports to enter or be on land under the authority of an exploration permit; and

-
- (b) the owner of the land, or an agent of the owner, asks the person for proof of the person's authority to enter or be on the land.
 - (2) The person must produce the exploration permit, or a copy of the permit, to the owner or agent.
 - (3) If the person fails to comply with subsection (2), the person does not have any entitlements under this chapter during the period of the person's noncompliance.
 - (4) This section does not prevent a person entering or being on land to deliver goods or substances or provide services related to the purpose for which an exploration permit is granted to a person who is lawfully on the land under this chapter.
 - (5) In this section—
copy, of an exploration permit, includes an extract from the register of the details of the permit recorded in the register.

95 Insertion of new ss 178A–178C

Chapter 4, part 4—

insert—

178A Activity report for exploration permit

A regulation may—

- (a) require a holder of an exploration permit to give the Minister a report (an *activity report*) about the activities carried out under the permit; and
- (b) prescribe the following for the activity report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

[s 96]

178B Partial relinquishment report for exploration permit

A regulation may—

- (a) require a holder of an exploration permit to give the Minister a report (a *partial relinquishment report*) about a reduction in the area of the permit; and
- (b) prescribe the following for the partial relinquishment report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

178C Final report for exploration permit

A regulation may—

- (a) require a holder of an exploration permit to give the Minister a report (a *final report*) summarising the results of exploration carried out under the permit during the whole of its term; and
- (b) prescribe the following for the final report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

96 Replacement of s 186A (Content of mineral development licence)

Section 186A—

omit, insert—

186A Details of mineral development licence to be recorded in register

The chief executive must record in the register the

following details of a mineral development licence—

- (a) the identification number of the licence;
- (b) the name of the holder;
- (c) the address for service of notices on the holder;
- (d) the description of land for which the licence is granted;
- (e) the term and date of commencement of the licence;
- (f) the conditions, other than conditions prescribed under this Act, to which the licence is subject;
- (g) the minerals the subject of the licence.

97 Amendment of s 194 (Conditions of mineral development licence)

(1) Section 194(1)—

insert—

- (ab) if the holder uses land outside the boundary of the area of the mineral development licence for access to the area of the mineral development licence, a condition that the holder may use the land only for the following purposes—
 - (i) to transport, by road across the surface of the land, something that is reasonably necessary to allow the holder to carry out an authorised activity for the mineral development licence;
 - (ii) to transport, by road across the surface of the land, any minerals mined under

[s 98]

the authority of a mining tenement held by the holder;

- (iii) to construct road transport infrastructure across the surface of the land that is reasonably necessary for the purpose of transporting a thing or mineral mentioned in subparagraph (i) or (ii); and

- (2) Section 194(1)(e)—

omit, insert—

- (e) a condition that the holder must give the Minister, in the way prescribed by regulation, the reports, returns, documents and statements required to be given to the Minister under a regulation; and

- (3) Section 194(1)(f)(i), ‘paragraph (e)’—

omit, insert—

paragraph (g)

- (4) Section 194(1)(aa) to (j)—

renumber as section 194(1)(a) to (l).

98 Amendment of s 194AAA (Additional conditions of mineral development licence relating to native title)

Section 194AAA(1) and (2), ‘section 194(1)(j)’—

omit, insert—

section 194(1)(l)

99 Amendment of s 194AC (Application to vary conditions of existing licence)

- (1) Section 194AC(3)(a), ‘section 194(1)(j)’—

omit, insert—

section 194(1)(l)

(2) Section 194AC(5)—

omit, insert—

- (5) The chief executive must record in the register the details of any varied conditions applying to the existing licence, including any conditions imposed as mentioned in subsection (3)(a).

100 Omission of ss 206 and 207

Sections 206 and 207—

omit.

101 Amendment of s 208 (Adding other minerals to licence)

Section 208(6)—

omit, insert—

- (6) The chief executive must record in the register the details of the approval.

102 Amendment of s 210 (Surrender of mineral development licence)

Section 210(8)—

omit, insert—

- (8) If part of the area of a mineral development licence is surrendered under this section—
- (a) the chief executive must record in the register the details of the surrender; and
 - (b) the licence continues in force for the part of the area not surrendered.

[s 103]

103 Replacement of s 216 (Production of mineral development licence)

Section 216—

omit, insert—

216 Producing mineral development licence

- (1) This section applies if—
 - (a) a person purports to enter or be on land under the authority of a mineral development licence; and
 - (b) the owner of the land, or an agent of the owner, asks the person for proof of the person's authority to enter or be on the land.
- (2) The person must produce the mineral development licence, or a copy of the licence, to the owner or agent.
- (3) If the person fails to comply with subsection (2), the person does not have any entitlements under this Act during the period of the person's noncompliance.
- (4) This section does not prevent a person entering or being on land to deliver goods or substances or provide services related to the purpose for which a mineral development licence is granted to a person who is lawfully on the land under this chapter.
- (5) In this section—

copy, of a mineral development licence, includes an extract from the register of the details of the licence recorded in the register.

104 Amendment of s 226AA (Application to add excluded land to existing licence)

Section 226AA(3)(a), 'section 194(1)(j)'—

omit, insert—

section 194(1)(l)

105 Insertion of new ss 231AA–231AC

Chapter 5, part 1, after section 231—

insert—

231AA Activity report for mineral development licence

A regulation may—

- (a) require a holder of a mineral development licence to give the Minister a report (an *activity report*) about the activities carried out under the licence; and
- (b) prescribe the following for the activity report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

231AB Partial surrender report for mineral development licence

A regulation may—

- (a) require a holder of a mineral development licence to give the Minister a report (a *partial surrender report*) about a reduction in the area of the licence; and
- (b) prescribe the following for the partial surrender report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

231AC Final report for mineral development licence

A regulation may—

- (a) require a holder of a mineral development licence to give the Minister a report (a *final report*) summarising the results of activities carried out under the licence during the whole of its term; and
- (b) prescribe the following for the final report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.

106 Amendment of s 231E (Minister may grant or reject application for mineral development licence (186))

- (1) Section 231E(1), ‘and issue to’—

omit.

- (2) Section 231E(6) and (7)—

omit, insert—

- (6) The Minister may decide a condition to which the licence is subject if the Minister considers the condition is in the public interest.
- (7) The chief executive must record in the register the following details of the licence—
 - (a) the identification number of the licence;
 - (b) the name of the holder;
 - (c) the address for service of notices on the holder;
 - (d) the description of land for which the licence is granted;
 - (e) the term and date of commencement of the licence;

-
- (f) the conditions, other than conditions prescribed under this Act, to which the licence is subject;
 - (g) the minerals the subject of the licence.

107 Amendment of s 231G (Conditions of mineral development licence (194))

(1) Section 231G(1)—

insert—

- (ab) if the holder uses land outside the boundary of the area of the mineral development licence for access to the area of the mineral development licence, a condition that the holder may use the land only for the following purposes—
 - (i) to transport, by road across the surface of the land, something that is reasonably necessary to allow the holder to carry out an authorised activity for the mineral development licence;
 - (ii) to transport, by road across the surface of the land, any minerals mined under the authority of a mining tenement held by the holder;
 - (iii) to construct road transport infrastructure across the surface of the land that is reasonably necessary for the purpose of transporting a thing or mineral mentioned in subparagraph (i) or (ii); and

(2) Section 231G(1)(aa) to (j)—

renumber as section 231G(1)(a) to (l).

[s 108]

108 Amendment of s 232 (Eligible person may apply for mining lease)

Section 232—

insert—

- (2) However, if the application is for a coal mining lease—
 - (a) the proposed lease area must be in the area of any of the following (each a *resource authority*)—
 - (i) a prospecting permit;
 - (ii) an exploration permit for coal;
 - (iii) a mineral development licence; and
 - (b) the applicant must—
 - (i) be the holder of the resource authority; or
 - (ii) have the consent of the holder of the resource authority to apply for the coal mining lease.

109 Amendment of s 237 (Drilling and other activities on land not included in surface area)

Section 237(5)(b)—

omit, insert—

- (b) the chief executive must record in the register the details of the approval.

110 Amendment of s 238 (Mining lease over surface of restricted land)

- (1) Section 238(1)(b), ‘before the last objection day ends’—

omit.

- (2) Section 238(3)—

omit.

- (3) Section 238(4)—
renumber as section 238(3).

111 Amendment of s 265 (Referral of application and objections to Land Court)

Section 265(10)—

omit, insert—

- (10) If all properly made objections referred to the Land Court under subsection (2) or (5) are withdrawn under section 261 or struck out under section 267A before the Land Court forwards its recommendation to the Minister under section 269, the Land Court may remit the matter to the chief executive.

112 Amendment of s 275 (Application for inclusion of surface of area of mining lease)

Section 275(3)(b)—

omit, insert—

- (b) the chief executive must record in the register the details of the approval.

113 Insertion of new s 275A

After section 275—

insert—

275A Application for surface of restricted land to be included in mining lease

- (1) The holder of a mining lease may, at any time during the term of the mining lease, lodge an application with the chief executive for the Minister's approval for the surface of restricted

[s 113]

land for the mining lease to be included in the mining lease.

- (2) The Minister may grant an application to include the surface of restricted land for the mining lease in the mining lease only if—
 - (a) each relevant owner of the restricted land has given written consent to the application; and
 - (b) the applicant has lodged each consent with the chief executive; and
 - (c) there is an agreement about compensation, or a decision of the Land Court on compensation, with each relevant owner of the restricted land (other than an owner who is the applicant) for the inclusion of the surface of the land in the mining lease.
- (3) An application under subsection (1) must be accompanied by the fee prescribed by regulation.
- (4) A relevant owner of restricted land can not withdraw a consent under subsection (2)(a) once it has been lodged with the chief executive.
- (5) If the application is granted—
 - (a) the mining lease must be amended to give effect to the approval and the conditions stated in it; and
 - (b) the chief executive must record in the register details about the approval.
- (6) To remove any doubt, it is declared that an application under this section to include the surface of restricted land for a mining lease in the mining lease is not an application for the grant of a mining lease under section 245.

114 Amendment of s 276 (General conditions of mining lease)

(1) Section 276(1)—

insert—

(ab) if the holder uses land outside the boundary of the area of the mining lease for access to the area of the mining lease, a condition that the holder may use the land only for the following purposes—

(i) to transport, by road across the surface of the land, something that is reasonably necessary to allow the holder to carry out an authorised activity for the mining lease;

(ii) to transport, by road across the surface of the land, any minerals mined under the authority of a mining tenement held by the holder;

(iii) to construct road transport infrastructure across the surface of the land that is reasonably necessary for the purpose of transporting a thing or mineral mentioned in subparagraph (i) or (ii); and

(2) Section 276(1)(ab) to (m)—

renumber as section 276(1)(b) to (n).

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

(1) Section 279, heading, ‘to be settled before grant or renewal of mining lease’—

omit, insert—

generally

(2) Section 279(1), after ‘renewed’—

[s 116]

insert—

, and an application under section 275A must not be granted for the surface of restricted land to be included in a mining lease,

(3) Section 279(4) and (5)—

omit.

116 Replacement of s 279A (Referral to Land Court of issue of compensation if not settled within 3 months after term of lease ends)

Section 279A—

omit, insert—

279A Deciding whether to grant mining lease if compensation not determined

- (1) Subsection (2) applies if, in relation to an application for the grant of a mining lease, compensation has not been determined as mentioned in section 279(1)(a) and an application has not been made to the Land Court under section 281 by—
 - (a) if the land or a part of land the subject of the application is a reserve and the Governor in Council consents to the grant in respect of that land—the day that is 3 months after the day the consent is given; or
 - (b) if paragraph (a) does not apply and no objection to the application is lodged—the day that is 3 months after the last objection day for the application; or
 - (c) otherwise—the day that is 3 months after the day the Land Court makes a recommendation about the grant of the mining lease.
- (2) The Minister may refuse to grant the mining lease.

117 Amendment of s 280 (Compensation for owner of land where surface area not included)

Section 280(3)—

omit.

118 Amendment of s 281 (Determination of compensation by Land Court)

Section 281(1)—

omit, insert—

- (1) At any time before an agreement is made under section 279 or 280, a person who could be a party to the agreement may apply in writing to the Land Court to have the Land Court determine the amount of compensation.

119 Amendment of s 285 (Mining lease may be specified it is not renewable)

Section 285(3) and (4)—

omit, insert—

- (3) If a mining lease is granted or renewed subject to a condition mentioned in subsection (2)—
 - (a) the Minister must give written notice of the reasons for the decision; and
 - (b) the chief executive must record in the register the details of the condition.

120 Amendment of s 286 (Application for renewal of mining lease)

(1) Section 286—

insert—

- (2A) Within 5 business days after the application is made, the holder must—

[s 121]

- (a) give a copy of the application and of any documents or information prescribed by regulation to the following persons (each *an interested party*)—
 - (i) each owner of land the subject of the mining lease;
 - (ii) each owner of land outside the boundary of the area of the mining lease the holder intends to use to access the area of the mining lease; and
 - (b) if, in relation to the grant or renewal of the mining lease, an agreement for compensation has been made with an interested party under section 279 or a determination of compensation for an interested party has been made under section 281—give a copy of the most recent agreement or determination to the interested party.
- (2B) For subsection (3), the application given to an interested party need not include—
- (a) information that may disclose the holder's financial and technical resources; or
 - (b) information that has a commercial or other value that would be, or could be expected to be, destroyed or diminished if the information were disclosed.
- (2) Section 286(2A) to (3)—
renumber as section 286(3) to (5).

121 Amendment of s 286A (Decision on application)

- (1) Section 286A—

insert—

- (8A) Without limiting subsection (7)(b), the Minister

may also refuse the renewal if—

- (a) compensation is to be determined as mentioned in section 279(1)(a) for the renewal of the mining lease; and
- (b) the compensation is not determined within 3 months after the current term of the lease would, apart from section 286C, end; and
- (c) an application has not been made to the Land Court under section 281.

(2) Section 286A(8A) and (9)—

renumber as section 286A(9) and (10).

122 Omission of s 289 (Chief executive may issue instrument of mining lease)

Section 289—

omit.

123 Amendment of s 294 (Variation of conditions of mining lease)

Section 294(5)—

omit, insert—

- (5) The chief executive must record in the register the details of every variation made under this section of the conditions of a mining lease.

124 Amendment of s 295 (Variation of mining lease for accuracy etc.)

(1) Section 295(4) and (5)—

omit.

(2) Section 295(6), ‘Minister’—

omit, insert—

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chief executive

- (3) Section 295(8), ‘subsection (7)’—
omit, insert—
subsection (5)
- (4) Section 295(9), ‘subsection (8)’—
omit, insert—
subsection (6)
- (5) Section 295(11)(a), ‘section 276(1)(c)’—
omit, insert—
section 276(1)(d)
- (6) Section 295(14), ‘subsections (11) and (13)’—
omit, insert—
subsections (9) and (11)
- (7) Section 295(15), ‘subsection (11) or (13)’—
omit, insert—
subsection (9) or (11)
- (8) Section 295(6) to (17)—
renumber as section 295(4) to (15).

125 Omission of ss 296 and 297

Sections 296 and 297—
omit.

126 Amendment of s 298 (Mining other minerals or use for other purposes)

Section 298(13)—
omit, insert—

- (13) The chief executive must record in the register the

details of an approval given under this section.

127 Amendment of s 299 (Consolidation of mining leases)

(1) Section 299(5)—

omit.

(2) Section 299(6) to (10)—

renumber as section 299(5) to (9).

128 Amendment of s 309 (Surrender of mining lease)

Section 309(7)—

omit, insert—

(7) If part of the area of a mining lease is surrendered under this section—

(a) the chief executive must record in the register the details of the surrender; and

(b) the lease continues in force for the part of the area not surrendered.

129 Insertion of new ss 315–315B

Chapter 6, part 1—

insert—

315 Activity report for mining lease

(1) A regulation may—

(a) require a holder or former holder of a mining lease to give the Minister a report (an *activity report*) about the activities carried out under the mining lease; and

(b) prescribe the following for the activity report—

(i) when the report is to be given;

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- (ii) the information to be contained in the report.
- (2) The holder or former holder must give an activity report in compliance with the regulation.
Maximum penalty—150 penalty units.

315A Relinquishment report for mining lease

- (1) This section applies in relation to a holder of a mining lease who, under a relinquishment condition, relinquishes part of the area of the lease.
- (2) A regulation may—
 - (a) require the holder to give the Minister a report (a *relinquishment report*) about the relinquishment; and
 - (b) prescribe the following for the relinquishment report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report;
 - (iii) the persons to whom a copy of the report is to be given.
- (3) The holder must give a relinquishment report in compliance with the regulation.
Maximum penalty—150 penalty units.

315B Surrender report for mining lease

- (1) This section applies in relation to a holder of a mining lease who applies, under section 309, to surrender the lease or a stated part or percentage of the area of the lease.
- (2) A regulation may—

-
- (a) require the holder to give the Minister a report (a *surrender report*) about the surrender; and
 - (b) prescribe the following for the surrender report—
 - (i) when the report is to be given;
 - (ii) the information to be contained in the report.
 - (3) The holder must give a surrender report in compliance with the regulation.

Maximum penalty—150 penalty units.

130 Amendment of s 317 (Variation of access to mining lease area)

Section 317(11)—

omit.

131 Amendment of s 318AAH (General conditions of mining lease (276))

(1) Section 318AAH(1)—

insert—

- (ab) if the holder uses land outside the boundary of the area of the mining lease for access to the area of the mining lease, a condition that the holder may use the land only for the following purposes—
 - (i) to transport, by road across the surface of the land, something that is reasonably necessary to allow the holder to carry out an authorised activity for the mining lease;
 - (ii) to transport, by road across the surface of the land, any minerals mined under

[s 132]

the authority of a mining tenement held by the holder;

- (iii) to construct road transport infrastructure across the surface of the land that is reasonably necessary for the purpose of transporting a thing or mineral mentioned in subparagraph (i) or (ii); and

- (2) Section 318AAH(1)(ab) to (n)—
renumber as section 318AAH(1)(b) to (o).

132 Amendment of s 318BL (Additional criteria for deciding conditions or term)

Section 318BL(1)(a) and (2), ‘section 276(1)(m)’—
omit, insert—
section 276(1)(n)

133 Amendment of s 318BM (Power to determine relinquishment condition)

- (1) Section 318BM(1) and (4), ‘section 276(1)(m)’—
omit, insert—
section 276(1)(n)
- (2) Section 318BM(2), note—
omit.

134 Amendment of s 318BU (Additional criteria for deciding conditions or term)

Section 318BU(1)(a) and (2), ‘section 276(1)(m)’—
omit, insert—
section 276(1)(n)

-
- 135 Amendment of s 318CG (Additional criteria for deciding conditions)**
Section 318CG(1) and (2), ‘section 276(1)(m)’—
omit, insert—
section 276(1)(n)
- 136 Omission of s 318CV (Obligation to lodge annual reports)**
Section 318CV—
omit.
- 137 Omission of s 318CX (Relinquishment report)**
Section 318CX—
omit.
- 138 Omission of s 318CY (Surrender report)**
Section 318CY—
omit.
- 139 Amendment of s 318ELBG (Additional criteria for deciding provisions of mining lease)**
Section 318ELBG(1)(a), ‘section 276(1)(m)’—
omit, insert—
section 276(1)(n)
- 140 Amendment of s 334ZM (Provisions about compensation for owners of lots 65 and 66 on RP909055)**
Section 334ZM(4), note, ‘and (4)’—
omit.

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141 Amendment of s 334ZZJ (Ownership of works constructed in connection with water monitoring bore)

(1) Section 334ZZJ—

insert—

(3A) However, subsection (2) does not apply if the water monitoring bore is transferred under part 4.

(2) Section 334ZZJ(3A) to (6)—

renumber as section 334ZZJ(4) to (7).

142 Insertion of new ch 12A, pt 4

Chapter 12A—

insert—

Part 4 Water monitoring bores

Division 1 Transfer of water monitoring bores

334ZZL Operation of division

(1) This division permits, in particular circumstances, the transfer of the following in relation to a water monitoring bore—

- (a) the control of, and responsibility for, the bore;
- (b) the ownership of any works constructed in connection with the bore.

Note—

For the ownership of works mentioned in paragraph (b) generally, see section 334ZZJ.

(2) In this division, a *transfer* of a water monitoring bore is a reference to a transfer in relation to the bore mentioned in subsection (1).

334ZZM Transfer permitted only under division

A purported transfer of a water monitoring bore is of no effect unless—

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

334ZZN Effect of transfer

- (1) If a water monitoring bore is transferred, any obligation the transferor had under this Act or another law in relation to the bore ends.
- (2) However, if the transferor is someone other than the State, subsection (1) does not apply in relation to the Environmental Protection Act.

Note—

For transfers by the State, see section 334ZZU.

334ZZO Transfer of water monitoring bore to landowner

- (1) An owner of a water monitoring bore may transfer the bore to a landowner if—
 - (a) a notice in the approved form is given to the chief executive; and
 - (b) the transfer fee prescribed by regulation is paid.

Note—

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

- (2) The approved form must require—
 - (a) a statement by the owner that, if the bore was constructed under section 334ZQ(1)(c), section 334ZQ(3) has been complied with for the bore; and

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(b) the signed consent of the landowner to the transfer.

(3) In this section—

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

334ZZP Transfer of water monitoring bore to the State

- (1) An owner of a water monitoring bore may transfer the bore to the State if—
 - (a) the owner 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 owner must, as required under section 334ZZS, decommission the bore; and
 - (c) the chief executive, within 20 business days after receiving the notice, gives the owner notice that the State consents to the transfer.
- (2) The approved form must require a statement by the owner that, if the bore was constructed under section 334ZQ(1)(c), section 334ZQ(3) has been complied with for the bore.
- (3) If the chief executive gives the owner 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 owner a notice under subsection (1)(c), the owner must, as required under section 334ZZS, decommission the bore.

334ZZQ Transfer of water monitoring bore to holder of mineral development licence, mining lease or water monitoring authority

- (1) An owner of a water monitoring bore may transfer the bore to a holder of a mineral development licence, mining lease or water monitoring authority if—
 - (a) the bore is in the area of the licence, lease or authority; and
 - (b) the owner gives the chief executive a notice in the approved form about the transfer; and
 - (c) the transfer fee prescribed by regulation is paid.
- (2) The approved form must require a statement by the owner that, if the bore was constructed under section 334ZQ(1)(c), section 334ZQ(3) has been complied with for the bore.

334ZZR Notice of transfer to Water Act regulator

- (1) If a transfer is made under section 334ZZO or 334ZZQ, the chief executive must give the Water Act regulator notice of the transfer.
- (2) A failure to comply with subsection (1) does not invalidate or otherwise affect the transfer.
- (3) In this section—

Water Act regulator means the chief executive of the department in which the Water Act is administered.

Division 2 Decommissioning of water monitoring bores

334ZZS Obligation to decommission

- (1) This section applies to a person (the *owner*) who holds a mineral development licence, mining lease or water monitoring authority under which a water monitoring bore was constructed, unless the water monitoring bore has, under division 1, been transferred.
- (2) The owner must decommission the bore from use under this Act before—
 - (a) the mineral development licence, mining lease or water monitoring authority ends; or
 - (b) the land on which the bore is located is no longer in the area of the licence, lease or authority.

Maximum penalty—500 penalty units.

- (3) For subsection (1), the bore is decommissioned from use under this Act only if—
 - (a) it has been plugged and abandoned in the way prescribed by regulation; and
 - (b) the decommissioning complies with the Water Act, sections 816 and 817; and
 - (c) the owner gives the chief executive a notice, in the approved form, of the decommissioning of the bore.
- (4) Subsection (3)(b) applies only to the extent it is not inconsistent with subsection (3)(a).

334ZZT Right of entry to facilitate decommissioning

- (1) This section applies if—
 - (a) an owner of a water monitoring bore has not decommissioned the bore as required under section 334ZZS; and

- (b) the mineral development licence, mining lease or water monitoring authority under which the bore was constructed has ended or the land on which the bore is located is no longer in the area of the licence, lease or authority.
- (2) The owner may enter the following land to carry out the decommissioning—
- (a) land (the *primary land*) on which the decommissioning must be, or was required to be, carried out;
 - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.
- (3) The Common Provisions Act, chapter 3, parts 2, 3 and 6 and part 7, divisions 1, 2 and 5 (other than subdivision 3) applies to the owner in the following way—
- (a) if the mineral development licence or water monitoring authority under which the bore was constructed has ended, as if—
 - (i) it were still in force; and
 - (ii) the owner is its holder;
 - (b) if the mining lease under which the bore was constructed has ended, as if—
 - (i) it were still in force; and
 - (ii) the owner is its holder; and
 - (iii) the Common Provisions Act, sections 37, 56(2) and 80 did not exclude the application of chapter 2, parts 2, 3 and 7 to a mining lease;
 - (c) as if the primary land and access land are in the area of the mineral development licence,

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mining lease or water monitoring authority under which the bore was constructed;

- (d) as if the decommissioning is an authorised activity for the mineral development licence, mining lease or water monitoring authority under which the bore was constructed.

334ZZU Responsibility for bore after decommissioning

- (1) This section applies if an owner of a water monitoring bore has, under section 334ZZS, decommissioned the bore.
- (2) Despite the decommissioning, the owner continues to be responsible under this Act for the bore until the earlier of the following times (the *relevant time*)—
- (a) the end of the mineral development licence, mining lease or water monitoring authority under which the bore was constructed;
- (b) when the land on which the bore is located is no longer in the area of the mineral development licence, mining lease or water monitoring authority under which the bore was constructed.
- (3) At the relevant time the bore is taken to have been transferred to the State.
- (4) Subsection (3) applies despite—
- (a) the 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 bore.
- (6) However—
- (a) the transfer from the State can only be to—

-
- (i) the owner of the land on which the bore is located; or
 - (ii) a holder of a mineral development licence, mining lease or water monitoring authority, the area of which includes that land; and
- (b) the transfer from the State and the use of the bore by the transferee is subject to this Act and any other relevant Act or law.

143 Amendment of s 335F (Application of pt 2)

Section 335F(1), ‘an election notice’—

omit, insert—

a conference election notice

144 Amendment of s 335G (Calling conference)

(1) Section 335G(1), ‘an election notice’—

omit, insert—

a conference election notice

(2) Section 335G(1), from ‘about’ to ‘agreement’—

omit.

145 Amendment of s 335I (What happens if a party does not attend)

(1) Section 335I(1), ‘the conference’—

omit, insert—

a conference under section 335G(2)

(2) Section 335I(2), note—

omit.

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146 Amendment of s 335J (Authorised officer's role)

Section 335J(2), 'section 89'—

omit, insert—

section 83B

147 Amendment of s 335L (Agreement made at conference)

Section 335L(2)—

omit.

148 Amendment of s 342 (Powers of authorised officers)

Section 342(1)(e)—

omit, insert—

(e) require a person to produce any books, accounts, records or documents and inspect, make copies of, or take extracts from, the books, accounts, records or documents;

149 Amendment of s 344A (Authorised person to carry out rehabilitation activities)

Section 344A(5)(b)(i)—

omit, insert—

(i) section 93(4)(b)(i) or (ii); or

150 Amendment of s 345 (Compensation)

(1) Section 345(3)—

omit.

(2) Section 345(5), 'subsection (4)'—

omit, insert—

subsection (3)

- (3) Section 345(4) and (5)—
renumber as section 345(3) and (4).

151 Amendment of s 346 (Land Court’s decision about compensation)

Section 346(1), ‘section 345(5)’—
omit, insert—
section 345(4)

152 Insertion of new ch 13, pt 6

Chapter 13—
insert—

Part 6 Releasing required information

382 Public release of required information

- (1) A holder of a mining tenement is taken to authorise the chief executive to do the following in relation to required information for the mining tenement after the end of any confidentiality period prescribed by regulation—
- (a) publish, in the way prescribed by regulation, the required information for public use;
 - (b) on payment of a fee prescribed by regulation, make the required information available to any person.
- (2) A confidentiality period prescribed under subsection (1) does not apply if the required information is about an authorised activity carried out in an area that is no longer in the area of the mining tenement.

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Example—

The required information is a seismic survey carried out on particular land in the area of an exploration permit. Subsection (1) does not apply if all of that land is reduced from the area of the permit.

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

383 Minister may use required information

- (1) A holder of a mining tenement is taken to authorise the chief executive to use the required information for the mining tenement for—
 - (a) purposes reasonably related to this Act; and
 - (b) the services of the State.
- (2) The authorisation is not affected by the ending of the mining tenement.

153 Amendment of s 386O (Place or way for making applications, giving, filing, forwarding or lodging documents or making submissions)

- (1) Section 386O(6)(c), ‘194(1)(e)’—

omit, insert—

194(1)(g)

- (2) Section 386O(6)(d), ‘section 318AAH(1)(f)’—

omit, insert—

section 318AAH(1)(g)

154 Amendment of s 386Y (Person carrying out activity under s 386V contravening condition or this Act)

- (1) Section 386Y(2)(b)—

omit, insert—

-
- (b) inviting the person to show cause, within the period stated in the notice, why the person's authority to carry out the activity under section 386V should not end.
- (2) Section 386Y(3)(b), 'subsection (4)(a)'—
omit, insert—
subsection (4)
- (3) Section 386Y(3)(c)—
omit.
- (4) Section 386Y(4) and (5)—
omit, insert—
- (4) A person given a notice under subsection (3) is no longer authorised to carry out the activity on the land.
- (5) A person given a notice under subsection (3) may appeal to the Land Court against the chief executive's decision to give the notice.

155 Omission of s 389 (Duplicate permits, leases etc.)

Section 389—
omit.

156 Amendment of s 404B (Interference with particular things)

- (1) Section 404B(1)(b)—
omit, insert—
- (b) a number (a *marked number*) marked or engraved on a post or cairn of stones used for marking out the boundary of the part of the area to which an application for a mining claim or mining lease relates;

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(2) Section 404B(2)—

omit, insert—

(2) For subsection (1), it is a reasonable excuse for a person to interfere with a boundary marker or marked number if the marker or number is no longer required under this Act.

(3) Section 404B(3), definition *interfere with*, ‘certificate of public notice,’—

omit.

157 Amendment of s 413 (Evidentiary provision)

(1) Section 413(4)(a)(i)—

omit.

(2) Section 413(4)(a)(ii) to (iv)—

renumber as section 413(4)(a)(i) to (iii).

158 Amendment of s 417 (Regulation-making power)

(1) Section 417(2)(r), ‘141(1)(e), 194(1)(e) or 318AAH(1)(f)’—

omit, insert—

318AAH(1)(g)

(2) Section 417(4), definition *report*, ‘section 318AAH(1)(f)’—

omit, insert—

section 318AAH(1)(g)

159 Amendment of s 833 (Act as in force on relevant day continues to apply for particular mining leases)

Section 833—

insert—

Note—

See section 842 for the application of this provision.

160 Amendment of s 834 (Relevant provisions continue to apply for particular mining tenements)

Section 834—

insert—

Note—

See section 843 for the application of this provision.

161 Insertion of new ch 15, pt 13

Chapter 15—

insert—

**Part 13 Transitional provisions
for Mineral, Water and
Other Legislation
Amendment Act 2018**

**840 Determining compensation for applications for
grant or renewal of mining claims and mining
leases made before commencement**

- (1) This section applies to an application for the grant or renewal of a mining claim or mining lease if—
 - (a) the application was made before the commencement; and
 - (b) immediately before the commencement—
 - (i) the application had not been decided; and
 - (ii) compensation in relation to the grant or renewal of the mining claim or mining lease had not been determined as mentioned in section 85(1)(a) or 279(1)(a).
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to

[s 161]

determining compensation in relation to the grant or renewal of the mining claim or mining lease as if the *Mineral, Water and Other Legislation Amendment Act 2018* had not been enacted.

841 Continuing effect of consent to enter reserve

A written consent given by an owner of a reserve to a person under schedule 1, section 4 before the commencement continues in effect as if the *Mineral, Water and Other Legislation Amendment Act 2018* had not been enacted.

842 Application of s 833 for particular mining leases

- (1) Section 833—
 - (a) applies only to an application for a mining lease over non-exclusive land if, immediately before its omission, former schedule 1A, part 6 applied to the application; and
 - (b) is taken to have always applied only to an application mentioned in paragraph (a).
- (2) This section applies despite section 833.
- (3) In this section—

former schedule 1A, part 6 means schedule 1A, part 6 as in force immediately before its omission under the Common Provisions Act.

non-exclusive land see section 833(3).

843 Application of s 834 for particular mining tenements

- (1) Section 834—

-
- (a) applies only to a mining tenement if, immediately before its omission, former schedule 1A, part 6 applied to the mining tenement; and
 - (b) is taken to have always applied only to a mining tenement mentioned in paragraph (a).
- (2) This section applies despite section 834.
 - (3) In this section—
former schedule 1A means schedule 1A as in force immediately before its omission under the Common Provisions Act.

162 Amendment of sch 1, s 1 (Notice of entry to owner or occupier)

Schedule 1, section 1(3), ‘5 business days’—

omit, insert—

10 business days

163 Replacement of sch 1, s 4 (Consent of owner of reserve)

Schedule 1, section 4—

omit, insert—

4 Entry to reserve

- (1) A person may enter the surface of a reserve under section 386V only—
 - (a) if the person has complied with section 1; and
 - (b) if an owner of the reserve imposes conditions on the entry—in compliance with the conditions.
- (2) A condition imposed under subsection (1)(b) must be a reasonable and relevant condition about

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the entry to the reserve or the carrying out of an activity under section 386V on land in the area of the reserve.

164 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *election notice*—

omit.

(2) Schedule 2—

insert—

activity report—

(a) for an exploration permit—see section 178A(a); or

(b) for a mineral development licence—see section 231AA(a); or

(c) for a mining lease—see section 315(1)(a).

coal interest, for chapter 4, part 3, division 5, see section 136O.

coal mining project, for chapter 4, part 3, division 5, see section 136P(1).

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

final report—

(a) for an exploration permit—see section 178C(a); or

(b) for a mineral development licence—see section 231AC(a).

owner, of a water monitoring bore, means the person who, under section 334ZZJ, owns the works constructed in connection with the bore.

partial relinquishment report, for an exploration permit, see section 178B(a).

partial surrender report, for a mineral development licence, see section 231AB(a).

project land, for a coal mining project, for chapter 4, part 3, division 5, see section 136P(2).

relinquishment report, for a mining lease, see section 315A(2)(a).

required information, for a mining tenement, means information about authorised activities carried out under the mining tenement that its holder has lodged under this Act.

road transport infrastructure means transport infrastructure relating to roads.

surrender report, for a mining lease, see section 315B(2)(a).

transfer, of a water monitoring bore, see section 334ZZL(2).

- (3) Schedule 2, definition *At Risk agreement*, editor's note—
omit, insert—

Editor's note—

The agreement is available on the department's website.

Part 7 **Amendment of Mineral Resources Regulation 2013**

165 **Regulation amended**

This part amends the *Mineral Resources Regulation 2013*.

166 **Amendment of s 8 (Conditions—Act, s 81)**

Section 8(1), 'section 81(1)(o)'—

omit, insert—

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section 81(1)(p)

167 Amendment of s 12 (Conditions—Act, s 194)

Section 12, ‘section 194(1)(i)’—

omit, insert—

section 194(1)(k)

168 Amendment of s 13 (Annual reports—Act, ss 141 and 194)

(1) Section 13, heading—

omit, insert—

13 Activity reports—Act, ss 178A and 231AA

(2) Section 13, before subsection (1)—

insert—

(1AA) For section 178A(a) and (b)(i) of the Act, a holder of an exploration permit must give the Minister an activity report within 1 month after each anniversary of the day the permit takes effect.

(1AB) For section 231AA(a) and (b)(i) of the Act, a holder of a mineral development licence must give the Minister an activity report within 1 month after each anniversary of the day the licence takes effect.

(3) Section 13(1) from ‘A report’ to ‘must contain’—

omit, insert—

The activity report must contain

(4) Section 13(2), ‘annual report’—

omit, insert—

activity report

(5) Section 13(1AA) to (2)—

renumber as section 13(1) to (4).

169 Amendment of s 14 (Expenditure statement for annual report)

- (1) Section 14, heading—

omit, insert—

14 Expenditure statement for activity report

- (2) Section 14(1), (3) and (4), ‘annual report’—

omit, insert—

activity report

170 Amendment of s 15 (First annual reports—Act, ss 141 and 194)

- (1) Section 15, heading—

omit, insert—

15 First activity report—Act, ss 178A and 231AA

- (2) Section 15, from ‘The first’ to ‘must contain’—

omit, insert—

The first activity report given under section 13 for an exploration permit or a mineral development licence must contain

- (3) Section 15(a) and (b), ‘annual report’—

omit, insert—

activity report

171 Amendment of s 16 (Partial surrender reports and partial relinquishment reports—Act, ss 141 and 194)

- (1) Section 16, heading—

omit, insert—

[s 172]

16 Partial relinquishment reports and partial surrender reports—Act, ss 178B and 231AB

(2) Section 16, before subsection (1)—

insert—

(1AA) For section 178B(a) and (b)(i) of the Act, a holder of an exploration permit must give the Minister a partial relinquishment report about a reduction in the area of the permit within 2 months after the reduction takes effect.

(1AB) For section 231AB(a) and (b)(i) of the Act, a holder of a mineral development licence must give the Minister a partial surrender report about a reduction in the area of the licence within 2 months after the reduction takes effect.

(3) Section 16(1) from ‘A report’ to ‘must contain’—

omit, insert—

The partial relinquishment report or partial surrender report must contain

(4) Section 16(1AA) to (3)—

renumber as section 16(1) to (5).

172 Amendment of s 17 (Final reports—Act, ss 141 and 194)

(1) Section 17, heading—

omit, insert—

17 Final reports—Act, ss 178C and 231AC

(2) Section 17, before subsection (1)—

insert—

(1AA) For section 178C(a) and (b)(i) of the Act, a holder of an exploration permit must give the Minister a final report within 2 months after the permit ends.

(1AB) For section 231AC(a) and (b)(i) of the Act, a holder of a mineral development licence must

give the Minister a final report within 2 months after the licence ends.

- (3) Section 17(1) from ‘A report’ to ‘must contain’—

omit, insert—

The final report must contain

- (4) Section 17(1)(a), ‘section 16(1)(a) to (f)’—

omit, insert—

section 16(3)(a) to (f)

- (5) Section 17(2), ‘subsection (1)(a)’—

omit, insert—

subsection (3)(a)

- (6) Section 17(1AA) to (3)—

renumber as section 17(1) to (5).

173 Amendment of s 18 (Giving reports—Act, ss 141 and 194)

Section 18(1), ‘194(1)(e)’—

omit, insert—

194(1)(g)

174 Amendment of s 22 (Conditions—Act, s 276)

Section 22, ‘section 276(1)(l)’—

omit, insert—

section 276(1)(m)

175 Insertion of new ch 2, pt 4, div 5

Chapter 2, part 4—

insert—

Division 5 Reports for coal or oil shale mining leases

29A Activity reports for coal or oil shale mining leases—Act, s 315

- (1) For section 315(1)(a) and (b)(i) of the Act, a holder of a coal or oil shale mining lease must give the Minister, within 2 months after each anniversary day for the lease, an activity report for the lease.
- (2) The activity report must—
 - (a) state details of each of the following for the 12 months that ended on the last anniversary day for the lease—
 - (i) the amount and location of coal seam gas mined;
 - (ii) the amount of each designated CSG product mined;
 - (iii) the percentage of methane in each designated CSG product mined;
 - (iv) the amount and location of each other mineral mined;
 - (v) for each mineral mentioned in subparagraphs (i) and (ii)—
 - (A) the amount sold; and
 - (B) the amount disposed of other than by sale; and
 - (C) each method of disposal other than sale; and
 - (D) the amount disposed of under each other method;

-
- (vi) whether there was any subsidence and, if there was any, its nature; and
 - (b) if the report states there was subsidence, include a plan showing its extent; and
 - (c) include a plan of the mine working envelope for the mining lease; and
 - (d) state details of the coal seam gas mined or proposed to be mined within the mine working envelope.
- (3) If the mining lease ends, its former holder must give the Minister a report for the period from the last anniversary day for the lease to when it ended that gives the information mentioned in subsection (2).

- (4) In this section—

anniversary day, for a mining lease, means a day that is the anniversary of the day on which the term of the mining lease started.

mine working envelope means land that covers any of the following or is needed for post-production activities—

- (a) past mine workings;
- (b) current mine workings;
- (c) mine workings scheduled to be mined within the next 5 years;
- (d) authorised activities for the mining lease associated with the processing, transportation, storage and use of the coal seam gas produced.

29B Relinquishment report for coal or oil shale mining leases—Act, s 315A

- (1) This section applies if, under a relinquishment condition, a holder of a coal or oil shale mining

[s 176]

lease relinquishes part of the area of the lease.

- (2) The notice making the relinquishment must be accompanied by a relinquishment report that includes details about—
 - (a) the authorised activities carried out on the land to which the notice relates; and
 - (b) the results of the activities.
- (3) The holder must give a copy of the relinquishment report to—
 - (a) the relevant authority to prospect holder; and
 - (b) anyone who has a current application for a petroleum lease for the land to which the notice relates.

29C Surrender report for coal or oil shale mining leases—Act, s 315B

- (1) This section applies if a holder of a coal or oil shale mining lease makes a surrender application mentioned in section 318EG of the Act.
- (2) The application must be accompanied by a surrender report that includes details about—
 - (a) the authorised activities carried out on the land to which the notice relates; and
 - (b) the results of the activities.

176 Omission of s 92 (Application for duplicate authorising document)

Section 92—

omit.

177 Insertion of new s 112

Chapter 4, part 10—

insert—

112 Requirement for joint interaction management plan relating to overlapping petroleum lease under 1923 Act

- (1) This section applies in relation to coal mining operations carried out under a coal mining lease in an overlapping area if a petroleum lease relating to the overlapping area is a petroleum lease under the *Petroleum Act 1923*.
- (2) A plan made under the pre-amended regulation, section 25 or 26, in relation to the coal mining operations is taken to be a joint interaction management plan for the purposes of section 25(1)(a).
- (3) Subsection (2) applies until a joint interaction management plan is made under section 25 for the coal mining operations.
- (4) The holder of the coal mining lease responsible for making a joint interaction management plan under section 25 must—
 - (a) make reasonable attempts to consult with the operator of each authorised activities operating plant, as mentioned in section 25(1)(b)(i), within 2 months after the commencement; and
 - (b) if the holder seeks to rely on section 25(2)—give the operator of each authorised activities operating plant a copy of the proposed plan, as mentioned in that subsection, within 2 months after the commencement.
- (5) In this section—

pre-amended regulation means this regulation as

[s 178]

in force immediately before the commencement
of section 111.

178 Amendment of sch 5 (Fees)

Schedule 5, part 8—

omit.

**Part 8 Amendment of Petroleum Act
1923**

179 Act amended

This part amends the *Petroleum Act 1923*.

180 Amendment of s 2 (Definitions)

(1) Section 2, definitions *1923 Act petroleum tenure, election notice, original notional sub-blocks and water observation bore*—

omit.

(2) Section 2—

insert—

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.

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

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.

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.

[s 181]

181 Amendment of s 18A (Minister's power to decide excluded land for authority to prospect)

(1) Section 18A(3)(a)—

omit, insert—

(a) must be within any sub-block included in the area of the authority; and

(2) Section 18A(4), 'the instrument'—

omit, insert—

the register

(3) Section 18A(4), after 'the reference to the block'—

insert—

in the register

182 Amendment of s 40B (Minister's power to decide excluded land for lease)

(1) Section 40B(3)(a)—

omit, insert—

(a) must be within any sub-block included in the area of the lease; and

(2) Section 40B(4), 'the instrument'—

omit, insert—

the register

(3) Section 40B(4), after 'the reference to the block'—

insert—

in the register

183 Amendment of s 44 (Form etc. of lease)

(1) Section 44(1)(a)—

omit.

- (2) Section 44(1)(b) to (d)—
renumber as section 44(1)(a) to (c).

184 Amendment of s 47 (Reservations, conditions and covenants of lease)

- (1) Section 47(1), ‘shall contain’—
omit, insert—

is subject to

- (2) Section 47(2)—
omit, insert—

- (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).

185 Amendment of s 65 (Reservations in favour of State)

Section 65(1), ‘is taken to contain’—
omit, insert—

is subject to

186 Amendment of s 75C (Authorisation to enter to facilitate compliance with s 74X or this division)

Section 75C(2), from ‘Parts’ to ‘section 2’—
omit, insert—

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

[s 187]

187 Amendment of s 75Q (Transfer of water observation bore or water supply bore to landowner)

Section 75Q(1), note—

omit, insert—

Note—

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

188 Insertion of new s 75QA

After section 75Q—

insert—

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.

189 Amendment of s 75U (Obligation to decommission)

- (1) Section 75U(4)(c)—

omit, insert—

- (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.

- (2) Section 75U(6)—

omit.

190 Amendment of s 75V (Right of entry to facilitate decommissioning)

Section 75V(3), ‘Parts 6H, 6I and 6K apply’—

omit, insert—

The Common Provisions Act, chapter 3, parts 2, 3 and 7 applies

191 Amendment of s 75WD (Operation of s div 2)

Section 75WD(3)(b)—

omit, insert—

- (b) the Common Provisions Act, chapter 3; and

[s 192]

192 Amendment of s 103A (Application of pt 6R)

Section 103A(1), ‘an election notice’—

omit, insert—

a conference election notice

193 Amendment of s 103B (Calling conference)

(1) Section 103B(1), ‘an election notice’—

omit, insert—

a conference election notice

(2) Section 103B(1), from ‘about’ to ‘agreement’—

omit.

194 Amendment of s 103D (What happens if a party does not attend)

(1) Section 103D(1), ‘the conference’—

omit, insert—

a conference under section 103B(2)

(2) Section 103D(2), note—

omit.

195 Amendment of s 103E (Authorised officer’s role)

Section 103E(2), ‘section 89’—

omit, insert—

section 83B

196 Amendment of s 103G (Agreement made at conference)

Section 103G(2)—

omit.

197 Omission of s 126 (Replacement of instrument for tenure)

Section 126—

omit.

198 Amendment of schedule (Decisions subject to appeal)

Schedule, entry for section 126—

omit.

Part 9 Amendment of Petroleum and Gas (Production and Safety) Act 2004

199 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

200 Amendment of s 17 (What is a *petroleum facility*)

Section 17(2)—

omit.

201 Amendment of s 32 (Exploration and testing)

Section 32(3), ‘section 73’—

omit, insert—

sections 71A and 71B

202 Amendment of s 99 (Minister’s power to decide excluded land)

(1) Section 99(4), ‘the instrument’—

omit, insert—

[s 203]

the register

(2) Section 99(4), after ‘the reference to the block’—

insert—

in the register

203 Amendment of s 109 (Exploration, production and storage activities)

Section 109(1)(b), ‘section 152’—

omit, insert—

sections 150A and 150C

204 Amendment of s 112 (Incidental activities)

Section 112(1)(b), examples, item 3, ‘section 152(1)’—

omit, insert—

section 150A(1) or 150C(1)

205 Amendment of s 169 (Minister’s power to decide excluded land)

(1) Section 169(4), ‘the instrument’—

omit, insert—

the register

(2) Section 169(4), after ‘the reference to the block’—

insert—

in the register

206 Amendment of s 185 (Underground water rights—general)

Section 185(4), ‘subsection (1)(a)’—

omit, insert—

subsection (1)

207 Amendment of s 288 (Transfer of water injection bore, water observation bore or water supply bore to landowner)

Section 288(1), note—

omit, insert—

Note—

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

208 Insertion of new s 288A

After section 288—

insert—

288A Transfer of water observation bore to State

- (1) A petroleum tenure holder or water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the 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 292, 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, if the bore was drilled under section 282, that section has been complied with for the bore.
- (3) If the chief executive gives the holder a notice

[s 209]

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 292, decommission the bore.

209 Amendment of s 292 (Obligation to decommission)

- (1) Section 292(4)(c)—

omit, insert—

- (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 580.

- (2) Section 292(6)—

omit.

210 Amendment of s 293 (Right of entry to facilitate decommissioning)

Section 293(3), from ‘The’ to ‘apply’—

omit, insert—

The Common Provisions Act, chapter 3, parts 2, 3 and 6 and part 7, divisions 1, 2 and 5 (other than subdivision 3) applies

211 Amendment of s 393 (Operation of div 1)

Section 393, note, from ‘chapter 5’ to ‘part 8’—

omit, insert—

the Common Provisions Act, chapter 3, part 2,
division 4

212 Amendment of s 399 (What is *pipeline land* for a pipeline licence)

Section 399(2)(b)—

omit, insert—

- (b) the giving of a waiver of entry notice under the Common Provisions Act, section 42 is not, of itself, a permission for subsection (1)(b)(ii).

213 Amendment of ch 4, pt 3 (Petroleum facility licences)

Chapter 4, part 3, note—

omit, insert—

Note—

See section 803 for the restrictions on constructing or operating a petroleum facility.

214 Amendment of s 439 (What is *petroleum facility land* for a petroleum facility licence)

Section 439(2)(b)—

omit, insert—

- (b) the giving of a waiver of entry notice under the Common Provisions Act, section 42 is not, of itself, a permission for subsection (1)(b)(ii).

215 Insertion of new ch 4, pt 3, div 1A

Chapter 4, part 3—

insert—

[s 216]

Division 1A Petroleum facility licence not required in relation to particular facilities

442A When petroleum facility licence not required

A petroleum facility licence is not required for—

- (a) a facility constructed or operated under—
 - (i) the *Amoco Australia Pty. Limited Agreement Act 1961*; or
 - (ii) the *Ampol Refineries Limited Agreement Act 1964*; or
- (b) the construction or operation of a petroleum facility for the distillation, processing, refining, storage or transport of petroleum authorised under—
 - (i) section 33; or
 - (ii) a petroleum lease or pipeline licence under this Act; or
 - (iii) a 1923 Act petroleum tenure.

216 Amendment of s 443 (Who may apply)

Section 443(3)—

omit.

217 Amendment of s 543 (Requirement of petroleum tenure holder to report outcome of testing)

- (1) Section 543(1)(a), ‘mentioned in section 73(1)’—

omit, insert—

under section 71A(1) or 71B(1)

- (2) Section 543(1)(b), ‘mentioned in section 152(1)’—

omit, insert—

under section 150A(1) or 150C(1)

218 Omission of ss 552A and 552B

Sections 552A and 552B—

omit.

219 Amendment of s 561 (Authorisation to enter to facilitate compliance with s 555 or this division)

Section 561(2), from ‘Parts 2’ to ‘557’—

omit, insert—

Sections 20 and 557 and the Common Provisions Act, chapter 3, parts 2, 3 and 7

220 Amendment of s 591A (Exemption for production testing)

(1) Section 591A(1)(a), ‘section 73 or 152’—

omit, insert—

section 71A or 150A

(2) Section 591A(3)(a), ‘section 73(2) or 152(2)’—

omit, insert—

section 71A or 150A

221 Amendment of s 670 (What is an *operating plant*)

Section 670(10)—

insert—

petroleum authority means—

(a) a petroleum authority under section 18(2);
or

[s 222]

- (b) an authority to prospect, petroleum lease, or water monitoring authority, under the 1923 Act.

222 Amendment of s 705 (Application of sdiv 1)

Section 705(b), after ‘physically affect,’—

insert—

the safety of persons or

223 Amendment of s 734B (Application of pt 1AA)

Section 734B(1), ‘an election notice’—

omit, insert—

a conference election notice

224 Amendment of s 734C (Calling conference)

- (1) Section 734C(1), ‘an election notice’—

omit, insert—

a conference election notice

- (2) Section 734C(1), from ‘about’ to ‘agreement’—

omit.

225 Amendment of s 734E (What happens if a party does not attend)

- (1) Section 734E(1), ‘the conference’—

omit, insert—

a conference under section 734C(2)

- (2) Section 734E(2), note—

omit.

226 Amendment of s 734F (Authorised officer's role)

Section 734F(2), 'section 537AB'—

omit, insert—

the Common Provisions Act, section 83B

227 Amendment of s 734H (Agreement made at conference)

Section 734H(2)—

omit.

228 Amendment of s 803 (Restriction on petroleum facility construction or operation)

Section 803, from 'unless the construction' to 'exist.'—

omit, insert—

unless—

- (a) the construction or operation is—
 - (i) carried out under this Act and under the authority of a petroleum authority; or
 - (ii) carried out under the Mineral Resources Act, section 318CN or 318CNA; or
 - (iii) necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (b) the petroleum facility is a facility constructed or operated under—
 - (i) the *Amoco Australia Pty. Limited Agreement Act 1961*; or
 - (ii) the *Ampol Refineries Limited Agreement Act 1964*; or
- (c) the petroleum facility is a facility for the distillation, processing, refining, storage or

[s 229]

transport of petroleum authorised under a
1923 Act petroleum tenure.

229 Amendment of s 844 (Amending applications)

Section 844(5), definition *relevant person*, paragraph (a)(i),
'389,'—

omit.

230 Amendment of s 848 (Power to correct or amend)

(1) Section 848(1) and (2)—

omit, insert—

(1) An official may, at any time, amend an authority
to—

(a) correct a clerical error; or

(b) for a petroleum authority—state, or more
accurately state, the boundaries of the area
of the authority because of a survey carried
out under section 558.

(2) An amendment under subsection (1) takes effect
when notice of the amendment is given to the
authority holder.

(2A) The chief executive must record in the register the
details of an amendment made under subsection
(1).

(2B) Also, an official may, at any time, amend a
condition of an authority if the authority holder
agrees in writing to the amendment.

(2) Section 848(3), 'subsections (1) and (2)'—

omit, insert—

subsections (1) and (4)

(3) Section 848(2A) to (4)—

renumber as section 848(3) to (6).

231 Omission of s 849 (Replacement of instrument for authority)

Section 849—

omit.

232 Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Section 910(1)(b)(i), ‘162(1)(a) and (g)’—

omit, insert—

162(1)(a) and (f)

233 Insertion of new ch 15, pt 21

Chapter 15—

insert—

**Part 21 Transitional provisions
for Mineral, Water and
Other Legislation
Amendment Act 2018**

**993 Requirement for joint interaction
management plan relating to overlapping
authority to prospect, petroleum lease, or
water monitoring authority, under 1923
Act**

- (1) This section applies in relation to an operating plant to which chapter 9, part 4, division 5, subdivision 1 applies under section 705 if a petroleum authority relating to the operating plant is an authority to prospect, petroleum lease, or water

[s 233]

monitoring authority, under the 1923 Act.

- (2) The principal hazard management plan applying in relation to the operating plant is taken to be a joint interaction management plan for the purposes of section 705B(1)(a).
- (3) Subsection (2) applies until a joint interaction management plan is made under section 705B in relation to the operating plant.
- (4) The operator of an authorised activities operating plant responsible for making a joint interaction management plan under section 705B must—
 - (a) make reasonable attempts to consult with the site senior executive, as mentioned in section 705B(1)(b)(i), within 2 months after the commencement; and
 - (b) if the operator seeks to rely on section 705B(2)—give the site senior executive a copy of the proposed plan, as mentioned in that subsection, within 2 months after the commencement.
- (5) In this section—

principal hazard management plan, applying in relation to an operating plant, means the part of the safety management system applying in relation to the operating plant that deals with hazards and risks relating to carrying out activities in an overlapping area.

994 Existing condition of petroleum lease no longer applies

- (1) This section applies if a condition of a petroleum

lease requires the holder to give the chief executive a report detailing infrastructure for the lease.

- (2) On the commencement, the condition is no longer a condition of the lease.

995 Determining period for exemption for production testing—s 591A

- (1) This section applies to petroleum mentioned in section 591A(2) that is produced before the commencement.
- (2) For section 591A(3)(a), the sum of all periods after 31 December 2004 for the petroleum must include the periods for which, under former section 73(2) or former section 152(2), production testing was authorised to be carried out in relation to the petroleum.
- (3) In this section—
former, in relation to a provision, means the provision as in force from time to time before its omission under the Common Provisions Act.

234 Amendment of sch 1 (Reviews and appeals)

Schedule 1, tables 1 and 2, entries for section 849—
omit.

235 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *compensation application*, *election notice* and *original notional sub-blocks*—
omit.
- (2) Schedule 2—
insert—

238 Amendment of s 39 (Matters for regulation)

Section 39(f), ‘self-assessable development’—
omit, insert—
accepted development

239 Insertion of new ch 2, pt 2, div 2, sdiv 2, hdg

Before section 40—
insert—

**Subdivision 2 Release of unallocated
water—volume stated in
water plan or prescribed
by regulation**

**240 Amendment of s 40 (Chief executive may release
unallocated water)**

Section 40(3)—
omit, insert—

- (3) However, if the unallocated water is neither of the following, subsection (2) does not apply to the extent the relevant water plan provides for an alternative process for the release of the unallocated water—
- (a) unallocated water held as a general reserve under the water plan;
 - (b) unallocated water temporarily released under subdivision 3 from a strategic water infrastructure reserve.

241 Insertion of new ch 2, pt 2, div 2, sdiv 3

Chapter 2, part 2, division 2—
insert—

Subdivision 3 Temporary release of water from strategic water infrastructure reserve

40A Chief executive may temporarily release water from reserve

- (1) The chief executive may temporarily release water from a strategic water infrastructure reserve for a purpose other than that stated in a water planning instrument.
- (2) The chief executive must release the water under the process prescribed under section 39(b).

Note—

This is the process under section 40(2).

- (3) However, the process can make the water available only under a water licence.
- (4) Also, a water licence granted for the release must be granted for a stated term of not more than 3 years.
- (5) Despite section 106(4), the water licence can not be renewed, reinstated, relocated, amalgamated or subdivided.
- (6) This section applies despite any provision of a water planning instrument relating to the release of water from the reserve.

40B Deciding whether to release water from reserve and considerations for the release

- (1) In deciding whether to temporarily release water from the reserve, the chief executive must consider—
 - (a) the volume of water that can be released from the reserve without the proposed

-
- infrastructure for which the reserve may have been intended being constructed; and
- (b) the likelihood of a process, for the release of water from the reserve for a purpose that is stated in a water planning instrument, commencing in the short term; and
 - (c) alternatives for access to water.
- (2) For the release, the chief executive must consider—
- (a) the outcomes and objectives of the relevant water plan, including the water allocation security objectives and environmental flow objectives; and
 - (b) water supply schemes; and
 - (c) other water users; and
 - (d) existing water markets.
- (3) If the water the chief executive proposes to release relates to a water supply scheme, the chief executive must consult with the resource operations licence holder for the scheme before releasing the water.

40C When water returns to reserve

On the expiry, surrender, cancellation or repeal of a water licence granted for the release, the water made available under the licence returns to the strategic water infrastructure reserve.

242 Amendment of s 43 (Contents of a water plan)

- (1) Section 43(1)(b), ‘economic, social and environmental outcomes’—

omit, insert—

economic outcomes, social outcomes, cultural

[s 243]

outcomes and environmental outcomes

- (2) Section 43(2)(f), after ‘unallocated water’—

insert—

not held as a general reserve under the water plan

- (3) Section 43—

insert—

- (3) To remove any doubt, it is declared that subsection (2)(f) does not override, or prevent, in an existing or future water plan a limitation, a condition or a matter that must or may be considered (however called) in a process for the release of unallocated water held as a general reserve under the water plan.

243 Amendment of s 45 (Making draft water plan)

Section 45(2)—

insert—

- (g) the water-related effects of climate change on water availability;
- (h) the interests of any Aboriginal parties or Torres Strait Islander parties in relation to the water resources for the plan area.

244 Amendment of s 60 (Making draft water use plan)

Section 60(2)—

insert—

- (c) the water-related effects of climate change on—
 - (i) water use practices; and
 - (ii) the risk to land or water resources arising from the use of water on land.

245 Amendment of s 72 (Draft water entitlement notice)

(1) Section 72—

insert—

(3A) Subsection (5) applies if—

- (a) the draft of a water entitlement notice provides for the conversion to a water allocation of a water licence; and
- (b) a person (the *relevant person*) other than an affected person is also an owner, as defined in section 104, of the land to which the licence attaches.

(3B) A copy of the notice under subsection (2) must also be given to the relevant person.

(2) Section 72(3A) to (4)—

renumber as section 72(4) to (6).

246 Amendment of s 93 (General authorisations to take water)

Section 93(f)—

omit.

247 Amendment of s 101 (Authorisation that may be altered or limited by water planning instrument)

Section 101—

insert—

- (3) Despite subsection (1)(b), the alteration or limitation can not prevent a person from taking overland flow water, that is contaminated agricultural run-off, to the extent the taking is necessary to comply with an obligation on the person under the *Environmental Protection Act 1994*.

[s 248]

248 Amendment of s 121 (Who may apply for dealing with water licence)

(1) Section 121—

insert—

(2A) Despite subsection (1), an application to relocate the water licence may be made only if section 126 applies to the licence.

(2) Section 121(3)(b)—

omit, insert—

(b) for the transfer of a water licence—the licensee and proposed transferee if the proposed transferee is an owner of land to which the water licence attaches or a prescribed entity;

249 Amendment of s 123 (Application to amend water licence to add or remove land)

Section 123(3)(b), from ‘inspected’—

omit, insert—

inspected.

250 Replacement of s 126 (Application to relocate water licence etc.)

Section 126—

omit, insert—

126 Application to relocate water licence

(1) This section applies to a water licence if any of the following allow all or part of the water licence to be relocated under this section—

(a) a regulation;

(b) a water management protocol;

- (c) a water plan.
- (2) An application may be made to relocate the water licence or the part of the water licence.
- (3) For section 122(2), the application must be made, assessed and decided under the process prescribed by regulation.
- (4) In this section—

prescribed person means—

- (a) a person who is, or will be, an owner of land to which a water licence will attach when a transfer under this section is approved; or
- (b) a prescribed entity.

relocate, a water licence, means—

- (a) if the licence attaches to land—amend the licence, so that all or part of the licence attaches to other land whether in or outside Queensland; or
- (b) amend the licence to change the location from which water may be taken under the licence; or
- (c) any of the following associated with, and applied for in the same application as, an amendment applied for under paragraph (a) or (b)—
 - (i) amend the licence to change the purpose for which water may be taken under the licence;
 - (ii) transfer the licence to a prescribed person;
 - (iii) amalgamate the licence with another water licence held or to be held by the transferee.

[s 251]

251 Amendment of s 130 (When dealing must be assessed as if it were a new water licence)

(1) Section 130(b), ‘daily rate or maximum rate per second’—

omit, insert—

rate

(2) Section 130(c), from ‘licence’—

omit, insert—

licence;

(3) Section 130—

insert—

(2) However, this section does not apply to a proposed dealing that is relocating a water licence under section 126.

252 Amendment of s 131 (Recording other dealings)

(1) Section 131(1), ‘section 130’—

omit, insert—

section 126 or 130

(2) Section 131(2), ‘The’—

omit, insert—

Subject to section 131A, the

(3) Section 131—

insert—

(2A) However, if the application has not been decided and the applicant has ceased to be an owner of the land to which the application relates, the chief executive must, if required, issue to the registered owner of the land 1 or more new water licences.

(4) Section 131(2A) to (6)—

renumber as section 131(3) to (7).

253 Insertion of new s 131A

After section 131—

insert—

131A Effect of disposal of part of land relating to particular dealing with water licence

- (1) This section applies to a proposed dealing, with a water licence, to which section 131 applies, if—
 - (a) the applicant for the dealing disposes of part of the land to which the application relates; and
 - (b) at the time the applicant disposes of the part, the chief executive has not decided the application under subsection 131.
- (2) The application lapses on the day the applicant disposes of the part.

254 Insertion of new s 137A

After section 137—

insert—

137A Additional information may be required

- (1) The chief executive may require—
 - (a) the applicant to give additional information about the application within the reasonable period stated in the requirement; or
 - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the requirement, the application lapses.

[s 255]

255 Amendment of s 179 (Content of a resource operations licence or distribution operations licence)

(1) Section 179(e)(vi)—

renumber as section 179(e)(viii).

(2) Section 179(e)—

insert—

(vi) a requirement that the licence holder collect and publish the sale price for each seasonal water assignment of a water allocation managed under the licence; and

(vii) for a resource operations licence—
environmental management rules for the licence; and

256 Amendment of s 183 (Chief executive must amend a resource operations licence or distribution operations licence for consistency with water plan)

(1) Section 183—

insert—

(3A) Subsection (5) applies if—

(a) the licence is a resource operations licence;
and

(b) the amendment proposed by the chief executive under subsection (2) is or includes a change to the environmental management rules for the licence.

(3B) The holder of the resource operations licence may, after the chief executive has consulted with the holder under subsection (3) about the proposed amendment, ask the chief executive, in writing, to refer the proposed change to the rules to a referral panel.

-
- (3C) Section 184A includes the procedure relating to a request made under subsection (5).
- (2) Section 183(3A) to (4)—
renumber as section 183(4) to (7).

257 Amendment of s 184 (Holder may apply to amend resource operations licence or distribution operations licence)

Section 184—

insert—

- (4) Subsections (5) to (7) apply if—
- (a) the licence is a resource operations licence; and
 - (b) the proposed amendment is or includes a change to the environmental management rules for the licence; and
 - (c) the chief executive refuses to approve all or part of the change to the rules.
- (5) The chief executive must give the holder of the resource operations licence notice of the refusal.
- (6) The holder may, in writing, ask the chief executive to refer the proposed change to the rules to a referral panel.
- (7) Section 184A includes the procedure relating to a request made under subsection (6).
- (8) If the chief executive approves the amendment, the chief executive must give the holder of the resource operations licence or distribution operations licence notice of the approval.
- (9) If the chief executive refuses to approve the amendment, the chief executive must give the holder of the resource operations licence or distribution operations licence notice of the

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refusal and the reasons for it.

258 Insertion of new s 184A

After section 184—

insert—

184A Procedure if request is made under s 183(5) or 184(6) to refer proposed change to rules to referral panel

- (1) This section applies if the holder of a resource operations licence makes a request under section 183(5) or 184(6) to refer a proposed change to the environmental management rules to a referral panel.
- (2) The chief executive must refer the proposed change to a referral panel together with sufficient information to enable the referral panel to make a recommendation to the chief executive about the proposed change, having regard to whether it—
 - (a) is consistent with the water plan outcomes and measures; and
 - (b) achieves any objectives stated in the water plan, including, for example, the water allocation security objectives and the environmental flow objectives; and
 - (c) is developed with adequate consultation with persons affected by the environmental management rules if the proposed change were to be made.
- (3) The referral panel must review the proposed change and the information and make recommendations to the chief executive within 30 business days after receiving the request and information.
- (4) In deciding whether to do either of the following, the chief executive must consider the referral

panel's recommendations—

- (a) amend the resource operations licence, under section 183(2);
- (b) approve the amendment, under section 184(3), of the resource operations licence.

259 Insertion of new ch 2, pt 3, div 5A

After section 203—

insert—

Division 5A Minister or chief executive may give direction to take action about water quality issue

203A Application of division

- (1) This division applies if the Minister or the chief executive (the *official*) is satisfied of the following in relation to water to which this Act applies—
 - (a) there is a water quality issue or potential water quality issue;
 - (b) urgent action, or prevention of action, by a relevant entity is necessary to prevent, minimise, mitigate or remedy the issue;
 - (c) taking the action or preventing the action would or may be inconsistent with an instrument of any of the following types—
 - (i) a distribution operations licence;
 - (ii) an interim resource operations licence;
 - (iii) a resource operations licence;
 - (iv) a water management protocol;

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(v) if the official is the Minister—a water plan.

(2) In this section—

relevant entity means—

- (a) the holder of a licence mentioned in subsection (1)(c); or
- (b) an entity that has an obligation under—
 - (i) if the official is the Minister—an instrument of a type mentioned in subsection (1)(c); or
 - (ii) if the official is the chief executive—an instrument of a type mentioned in subsection (1)(c)(i), (ii), (iii) or (iv).

water quality issue means a matter or thing relating to the quality of water that—

- (a) affects whether the water can be used for its intended purpose; or
- (b) causes damage to infrastructure or affects whether infrastructure functions as intended; or
- (c) is harmful to the health of humans or the environment.

203B Direction to take action or direction not to take action

- (1) The official may by a notice given to the relevant entity direct the entity in either or both of the following ways—
 - (a) to take stated reasonable action within or for a stated reasonable period;

Example—

if the entity is the holder of a resource operations licence, direct the entity to operate stated water

- infrastructure, operated by the entity, in a stated way (for example, to release water from the infrastructure for the purpose of remedying the water quality issue) for a stated reasonable period
- (b) not to take stated action for a stated reasonable period.
- (2) The notice must also state—
- (a) the notice is given under this section; and
 - (b) complying with the direction would or may be inconsistent with—
 - (i) if the official is the Minister—a stated instrument of a type mentioned in section 203A(1)(c); or
 - (ii) if the official is the chief executive—a stated instrument of a type mentioned in section 203A(1)(c)(i), (ii), (iii) or (iv); and
 - (c) the direction prevails over the instrument to the extent of any inconsistency with the instrument.

203C Deciding whether to give direction and deciding content of direction

In deciding whether to give a direction under section 203B(1) to the relevant entity, or the content of the direction, the official—

- (a) must have regard to the following—
 - (i) any impacts on water supplies (including, for example, impacts on any town water supplies or the critical needs of a power station);
 - (ii) any impacts on water security for water entitlement holders;

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- (iii) any impacts on the environment, including, for example, the Great Barrier Reef;
 - (iv) the public interest, including, for example, public health and safety;
 - (v) whether under an Act there is another means that could be used to require timely action to be taken, or timely prevention of action, for the purpose of preventing, minimising, mitigating or remedying the water quality issue; and
- (b) may have regard to any other matter the official considers appropriate.

203D Direction must be complied with

A relevant entity given a direction under section 203B(1) must comply with the direction unless the entity has a reasonable excuse.

Maximum penalty—1,665 penalty units.

203E Protection of relevant entity

- (1) Subsection (2) applies to a relevant entity given a direction under section 203B(1) that takes action, or does not take action, that is—
 - (a) inconsistent with the entity's current supply contractual arrangements; and
 - (b) in compliance with the direction.
- (2) The relevant entity is not liable for loss or damage caused by taking the action or not taking the action.
- (3) Subsection (2)—
 - (a) applies only to the extent the relevant entity acted honestly and without negligence; and

- (b) does not affect the relevant entity's liability for negligence.

203F Protection of State and official from liability

Civil liability does not attach to the State or the official because of a failure to give a direction under section 203B(1).

203G Report by official

- (1) This section applies if an official gives a relevant entity a direction under section 203B(1) in relation to a water quality issue.
- (2) The official must prepare and publish a report stating the following—
 - (a) details of the water quality issue;
 - (b) the circumstances under which the urgent action, or prevention of action, by the entity was necessary;
 - (c) any action taken, or any action not taken, by the entity as a result of the direction.
- (3) In preparing the report the official must consult with the relevant entity.
- (4) The official may ask the relevant entity to give to the official information the official reasonably requires for preparing the report.

260 Amendment of s 241 (Referral panels)

Section 241(1)(d)—

omit, insert—

- (d) environmental management rules for a resource operations licence; or

[s 261]

261 Amendment of s 362 (Definitions for ch 3)

Section 362, definition *production testing*, paragraph (a)—
omit, insert—

- (a) for a petroleum tenure granted under the Petroleum and Gas Act—
 - (i) ATP production testing under section 71A of that Act; or
 - (ii) if section 71A does not apply—PL production testing under section 150A of that Act; or

262 Amendment of s 425 (Application of div 4)

Section 425(a), after ‘water bore’—
insert—

(each a *party*)

263 Replacement of s 426 (Parties may seek conference or independent ADR)

Section 426—
omit, insert—

426 Parties may seek conference or independent ADR

- (1) This section applies if a dispute arises about a matter mentioned in section 425.
- (2) Either party may—
 - (a) by a notice (a *conference election notice*) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or
 - (b) by a notice (an *ADR election notice*) given to the other party—call for the other party to

agree to a non-binding alternative dispute resolution process (an *ADR*) to seek to negotiate a resolution of the dispute.

- (3) The ADR may be a non-binding process of any type, including, for example, a case appraisal, conciliation, mediation or negotiation.
- (4) A conference election notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) any other information prescribed by regulation.
- (5) An ADR election notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) the type of ADR proposed; and
 - (c) the name of an ADR facilitator, who is independent of both parties, proposed to conduct the ADR; and
 - (d) that the resource tenure holder is liable for the costs of the ADR facilitator; and
 - (e) any other information prescribed by regulation.
- (6) A party given an ADR election notice must, within 10 business days after the notice is given, accept or refuse the type of ADR, and the ADR facilitator, proposed in the notice.
- (7) If the party given an ADR election notice does not accept, under subsection (6), the type of ADR or ADR facilitator proposed in the notice, the party giving the notice may make another proposal, or obtain a decision from the Land Court or a prescribed ADR institute, about the matter not accepted.
- (8) If a party obtains a decision under subsection (7)

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from the Land Court or a prescribed ADR institute, the party must give the other party notice of the decision.

- (9) The resource tenure holder must bear the costs of the ADR facilitator.
- (10) The *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if—
 - (a) a reference to an ADR process included a reference to the ADR; and
 - (b) a reference to an ADR convenor included a reference to the ADR facilitator.
- (11) In this section—

ADR facilitator means a person who facilitates an ADR.

prescribed ADR institute means an entity for deciding a type of ADR to be conducted, or an ADR facilitator to conduct an ADR, prescribed by regulation.

264 Amendment of s 427 (Duration of conference or ADR)

- (1) Section 427(1) to (4)—

omit, insert—

- (1) If a conference election notice is given under section 426(2)(a), the authorised officer directed under section 428 to conduct the conference must take all reasonable steps to facilitate the resolution of the dispute within 30 business days after the notice is given (the ***usual period***).
- (2) If an ADR election notice is given under section 426(2)(b), the parties must use all reasonable endeavours to resolve the dispute within 30 business days after the notice is given (also the ***usual period***).

-
- (3) Either party may, within the usual period, ask the other party to agree to a longer period to apply instead of the usual period.
- (2) Section 427(5) and (6)—
renumber as section 427(4) and (5).

265 Amendment of s 428 (Calling conference)

Section 428(1), ‘an election notice’—

omit, insert—

a conference election notice

266 Insertion of new ch 3, pt 5, div 4, sdiv 3A

Chapter 3, part 5, division 4—

insert—

Subdivision 3A Arbitration

433A Parties may request arbitration

- (1) This section applies if—
- (a) a party has given a conference election notice, or an ADR election notice, to another party about a dispute about a matter mentioned in section 425(a); and
 - (b) at the end of the period applying under section 427(2) or (4), the parties have not resolved the dispute.
- (2) Either party may give a notice (an ***arbitration election notice***) to the other party requesting the other party to participate in an arbitration to decide the dispute.
- (3) The arbitration election notice must state—

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- (a) details of the matters the subject of the dispute; and
 - (b) the name of an arbitrator, who is independent of both parties, proposed to conduct the arbitration; and
 - (c) that, if the request for arbitration is accepted, an application to the Land Court under section 434 for a decision about the dispute can not be made; and
 - (d) that the costs of the arbitration are payable by the parties as mentioned in section 433E; and
 - (f) any other information prescribed by regulation.
- (4) A party given an arbitration election notice must, within 15 business days after the notice is given, accept or refuse the request for arbitration.
- (5) If the request for arbitration is accepted under subsection (4), the parties may, within 10 business days after the acceptance, jointly appoint the arbitrator proposed under subsection (3)(b), or another arbitrator, to conduct the arbitration.
- (6) If the parties do not, under subsection (5), jointly appoint an arbitrator, the party giving the arbitration election notice must require a prescribed arbitration institute to appoint an arbitrator, who is independent of both parties, to conduct the arbitration.
- (7) A prescribed arbitration institute does not incur any civil monetary liability for an act or omission in the performance, or purported performance, of a function under subsection (6) unless the act or omission is done or made in bad faith or through negligence.
- (8) In this section—

prescribed arbitration institute means an entity for appointing arbitrators that is prescribed by regulation.

433B Arbitrator's functions

- (1) The arbitrator has authority to decide the dispute by the issuance of an award.
- (2) However, the arbitrator may decide a matter the subject of the dispute only to the extent it is not subject to a make good agreement between the parties.
- (3) The award must be made within 6 months after the appointment of the arbitrator.

433D Application of Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* applies to the arbitration to the extent it is not inconsistent with this subdivision.

433E Costs of arbitration

- (1) If, before the appointment of the arbitrator, the parties have not participated in an ADR about the dispute, the resource tenure holder is liable to pay the fees and expenses of the arbitrator.
- (2) If, before the appointment of the arbitrator, the parties have participated in an ADR about the dispute, the parties are liable to pay the fees and expenses of the arbitrator in equal shares unless the parties agree, or the arbitrator decides, otherwise.
- (3) Other than as provided under subsection (1) or (2), each party to an arbitration must bear the party's own costs for the arbitration unless the parties agree, or the arbitrator decides, otherwise.

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433F Effect of arbitrator's decision

- (1) The arbitrator's decision is final.
- (2) The parties may not apply for review of, or appeal against, the decision.
- (3) The arbitrator's decision does not limit or otherwise affect a power of the Supreme Court to decide a decision of the arbitrator is affected by jurisdictional error.
- (4) The arbitrator's decision has the same effect as if the parties had entered into a binding and enforceable agreement to the same effect as the decision.

267 Amendment of s 434 (Deciding dispute through Land Court after unsuccessful conference or ADR)

- (1) Section 434(1)—

omit, insert—

- (1) This section applies if—
 - (a) a party gives another party a conference election notice and the authorised officer does not finish the conference within the period required under section 427 (the ***required period***); or
 - (b) a party gives another party an ADR election notice and the parties do not finish the ADR within the period required under section 427 (also the ***required period***).

- (2) Section 434—

insert—

- (2A) However, this section does not apply if—
 - (a) a party has issued an arbitration election notice about the matters the subject of the

conference election notice or ADR election notice; and

(b) the party given the arbitration election notice has accepted, under section 433A(4), the request for arbitration.

(3) Section 434(3), from ‘matter’—

omit, insert—

matters the subject of the conference election notice or ADR election notice.

(4) Section 434(2A) to (4)—

renumber as section 434(3) to (5).

268 Insertion of new ch 3, pt 5, div 4, sdiv 5, hdg

After section 436—

insert—

Subdivision 5 Successors and assigns

269 Insertion of new s 437A

After section 437—

insert—

437A Arbitrator’s decision binding on successors and assigns

- (1) This section applies to a decision of an arbitrator under subdivision 3A.
- (2) The decision binds the parties to the arbitration that led to the decision, and each of their successors and assigns.

270 Amendment of s 808 (Unauthorised taking, supplying or interfering with water)

(1) Section 808(1)(a), note—

[s 271]

omit, insert—

Note—

See also the Mineral Resources Act, sections 334ZR and 334ZZ and the Petroleum and Gas Act, sections 188 and 196.

- (2) Section 808(2)(a), note—

omit, insert—

Note—

See also the Mineral Resources Act, sections 334ZR and 334ZZ and the Petroleum and Gas Act, sections 188 and 196.

271 Amendment of s 816 (Unauthorised water bore activities)

- (1) Section 816(1)(b) and (c)—

omit, insert—

- (b) remove, replace, alter or repair the lining or screen of a water bore;
- (c) remove, replace, alter or repair the casing of a water bore other than a subartesian bore casing less than 1.2m below the surface;
- (d) decommission a water bore.

- (2) Section 816(2)(a), ‘chapter 2, part 10’—

omit, insert—

chapter 8, part 2B

272 Amendment of s 983J (Production of licence to authorised officer)

Section 983J(1)(b) and (c)—

omit, insert—

- (b) removing, replacing, altering or repairing the lining or screen of a water bore; or

- (c) removing, replacing, altering or repairing the casing of a water bore other than a subartesian bore casing less than 1.2m below the surface; or
- (d) decommissioning a water bore.

273 Amendment of s 986 (Particular reductions in allocation's value)

Section 986(1)—

omit, insert—

- (1) An owner of a water allocation is entitled to be paid reasonable compensation by the State if a change, while the water plan relating to the allocation is in force, reduces the value of the allocation.

274 Insertion of new s 1006A

After section 1006—

insert—

1006A Underground water may be declared to be overland flow water

- (1) A regulation or a water plan may declare particular underground water to be overland flow water.
- (2) Underground water declared to be overland flow water is not underground water.

275 Amendment of s 1250I (Application for dealings)

Section 1250I(d)—

omit, insert—

- (d) a reference in section 121(3)(b) to 'proposed transferee if the proposed transferee is an

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owner of land to which the water licence attaches or a prescribed entity' were a reference to 'proposed transferee if the proposed transferee may apply for an associated water licence under section 1250D'.

276 Amendment of s 1250S (Associated water licence taken to be water licence for particular provisions)

(1) Section 1250S(d)—
renumber as section 1250S(e).

(2) Section 1250S—
insert—
(d) section 1009;

277 Amendment of s 1259 (Stated provisions of a resource operations plan are taken to be, or are included in, or to be read and construed with, other documents)

Section 1259—

insert—

(11) To remove any doubt, it is declared that if the draft water plan includes both of the following amendments, section 46(2)(c) as applied by section 51(1) may be complied with in the notice required by section 46(2) by indicating in the notice the part of the draft about which an entity may make a submission—

- (a) an amendment mentioned in subsection (7);
- (b) an amendment to which the consultation provisions apply.

278 Insertion of new s 1259A

After section 1259—

insert—

1259A Reference in particular plans to unamended Act provision that has a corresponding provision

- (1) This section applies to a reference in a relevant plan to a provision, of the unamended Act, for a matter, if there is a corresponding provision of the amended Act for the matter.
- (2) To remove any doubt it is declared that, unless the relevant plan or this part provides otherwise, the reference to the provision is taken to be a reference to the corresponding provision.
- (3) In this section—
relevant plan means—
 - (a) a water plan; or
 - (b) a resource operations plan to which section 1259 applies.

279 Renumbering of ch 9, pt 10, s 1283 (Existing development applications)

Chapter 9, part 10, section 1283—
renumber as section 1284.

280 Insertion of new ch 9, pt 11

Chapter 9—
insert—

Part 11 **Transitional provisions
for Mineral, Water and
Other Legislation
Amendment Act 2018**

1285 Unfinished process provided by water plan for release of particular unallocated water

- (1) This section applies if—
 - (a) immediately before the commencement, a water plan provided to any extent for a process for the release of unallocated water held as a general reserve under the water plan; and
 - (b) the process started before the commencement but has not ended.
- (2) The process continues to apply in relation to the release of the unallocated water, as if the *Mineral, Water and Other Legislation Amendment Act 2018* had not been enacted.

1286 Amending water plan to remove process for release of particular unallocated water

- (1) This section applies if, immediately before the commencement, a water plan provided to any extent for a process for the release of unallocated water held as a general reserve under the water plan.
- (2) The consultation provisions under section 51 do not apply for amending the water plan to remove the process, including making any consequential amendments.

1286A Application of requirement for water plan to state desired cultural outcomes

The requirement under section 43(1)(b) for a water plan to state desired cultural outcomes applies only to a water plan prepared by the Minister under section 42 or 50(1)(b) after the commencement.

1287 Application of particular matters Minister must consider in making draft water plan

Section 45(2)(g) and (h) applies only to a draft water plan the Minister starts to make after the commencement.

1288 Amendment of existing distribution operations licence or resource operations licence by agreement

- (1) This section applies to a distribution operations licence, or resource operations licence, in force immediately before the commencement.
- (2) The chief executive may amend the licence without complying with the provisions of chapter 2, part 3, division 5, subdivision 2 if—
 - (a) the licence holder agrees to the amendment; and
 - (b) the amendment is to state a condition requiring the holder to collect and publish the sale price for each seasonal water assignment of a water allocation managed under the licence.

1289 References to SEQ Water

In an Act enacted, or subordinate legislation made under this Act, before the commencement, if the context permits, a reference to SEQ Water may be taken to be a reference to Seqwater.

1290 Election notice

- (1) This section applies if, before the commencement—

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- (a) a party gave, under section 426 as in force before the commencement, another party an election notice—
 - (i) asking for an authorised officer to call a conference to negotiate a resolution of a dispute; or
 - (ii) calling upon the party to agree to an ADR to negotiate a resolution of a dispute; and
 - (b) the conference, or the ADR, was not finished under section 427 as in force before the commencement.
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to—
- (a) the conference or ADR; and
 - (b) any proceeding in the Land Court, whether started before or after the commencement, that relates to the matters the subject of the dispute.
- (3) The new arbitration provisions do not apply in relation to the matters the subject of the dispute.
- (4) In this section—
- new arbitration provisions* means the provisions inserted into chapter 3, part 5 under the *Mineral, Water and Other Legislation Amendment Act 2018*.

281 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *election notice*, *lake*, *seasonal water assignment* and *SEQ Water*—
omit.
- (2) Schedule 4—

insert—

Aboriginal party see section 95(2).

ADR election notice see section 426(2)(b).

arbitration election notice see section 433A(2).

conference election notice see section 426(2)(a).

cultural outcome means a beneficial consequence to an Aboriginal party or Torres Strait Islander party relating to aquifers, drainage basins, catchments, subcatchments or watercourses.

environment see the *Environmental Protection Act 1994*, section 8.

lake—

- (a) if a feature is identified on the watercourse identification map as a lake—means the feature identified on the map; or
- (b) otherwise—
 - (i) includes a lagoon, swamp or other natural collection of water, whether permanent or intermittent, and the bed, banks and any other element confining or containing the water; but
 - (ii) does not include a lake within which the high spring tide ordinarily flows and reflows or a drainage feature.

official, for chapter 2, part 3, division 5A, see section 203A(1).

relevant entity, for chapter 2, part 3, division 5A, see section 203A(2).

relocate, a water licence, see section 126(4).

seasonal water assignment means—

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- (a) for each of the following instruments—
assignment by the holder of the instrument of the benefit under the instrument to another person, for a water year, or shorter period prescribed by a water management protocol, of all or part of the water that may be taken under the instrument—
 - (i) a water allocation;
 - (ii) a seasonal water assignment notice for a water allocation; or
- (b) for each of the following instruments—
assignment by the holder of the instrument of the benefit under the instrument to another person, for a water year, of all or part of the water that may be taken under the instrument—
 - (i) a water licence;
 - (ii) a seasonal water assignment notice for a water licence.

Seqwater means Queensland Bulk Water Supply Authority established under the *South East Queensland Water (Restructuring) Act 2007*.

strategic water infrastructure reserve means unallocated water held as—

- (a) a strategic water infrastructure reserve under a water plan; or
- (b) a strategic reserve, that is not set aside for Indigenous purposes, under a water plan.

Torres Strait Islander party see section 95(2).

water quality issue, for chapter 2, part 3, division 5A, see section 203A(2).

- (3) Schedule 4, definition *overland flow water*, paragraph 2—
renumber as paragraph 3.

(4) Schedule 4, definition *overland flow water*—
insert—

2 *Overland flow water* includes particular underground water declared to be overland flow water under section 1006A.

Part 11 **Minor and consequential amendments**

282 Act amended

Schedule 1 amends the Act it mentions.

8 Section 828(4), definition *deemed executive liability provision*, first and second dot points—

omit, insert—

- section 28(7)

9 Section 851(2), from ‘water resource plan’ to ‘the plan’—

omit, insert—

water plan or water entitlement notice, the interested person may appeal only to the extent a different decision, consistent with the plan or water entitlement notice

10 Section 972D(2), ‘section 20A(2)’—

omit, insert—

section 96(2)

11 Section 972D(4), definition *relevant provision*—

omit, insert—

relevant provision means any of the following—

- (a) section 93;
- (b) section 95(1);
- (c) section 96;
- (d) section 99;
- (e) section 102.

12 Chapter 8, part 3B, heading, ‘SEQ Water’—

omit, insert—

Seqwater

- 13 Sections 992B, 992C, 992D and 992F, ‘SEQ Water’—**
omit, insert—
Seqwater
- 14 Section 1006, ‘water resource plan’—**
omit, insert—
water plan
- 15 Section 1007(1) and (2)(a), ‘section 20A(3)(a)’—**
omit, insert—
section 96(3)(a)
- 16 Section 1007(3), ‘section 127B(2)’—**
omit, insert—
section 153(2)
- 17 Section 1007(3) and (4), ‘section 127C’—**
omit, insert—
section 154
- 18 Section 1007(4), ‘section 127C(4)’—**
omit, insert—
section 154(4)
- 19 Section 1010A(1)(a), ‘36, 36A or 97’—**
omit, insert—
25Y, 35 or 181

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- 20 Section 1010A(1)(a), editor’s note—**
omit.
- 21 Sections 1013B(3)(a), ‘chapter 2, part 2, division 1A’—**
omit, insert—
chapter 2, part 3, division 1
- 22 Section 1046(4)(a), ‘section 20(2)(c)’—**
omit, insert—
section 101(1)(c)
- 23 Section 1046(5), ‘section 206’—**
omit, insert—
section 107
- 24 Schedule 4, definition *current infrastructure owner*—**
omit, insert—
current infrastructure owner, for chapter 2, part 3, division 5, subdivision 3, see section 187(2).
- 25 Schedule 4, definition *distribution operations licence*, ‘chapter 2, part 4, division 3’—**
omit, insert—
chapter 2, part 3, division 5
- 26 Schedule 4, definition *petroleum tenure holder*—**
omit, insert—
petroleum tenure holder means a person who holds a petroleum tenure.

