

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, November 2018*



Queensland

**No.  
A BILL for**

**An Act to establish a financial provisioning scheme to deal with the environmental impacts of resource activities, and to amend this Act, the Environmental Protection Act 1994, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Right to Information Act 2009 and the State Development and Public Works Organisation Act 1971 for particular purposes**





Queensland

# Mineral and Energy Resources (Financial Provisioning) Bill 2018

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
<b>Division 1</b>	<b>Introduction</b>	
1	Short title . . . . .	16
2	Commencement . . . . .	16
<b>Division 2</b>	<b>Purposes and application of Act</b>	
3	Main purposes . . . . .	16
4	How main purposes to be achieved . . . . .	17
5	Relationship with Environmental Protection Act 1994 . . . . .	17
6	Act does not affect other rights or remedies . . . . .	18
<b>Division 3</b>	<b>Interpretation</b>	
<b>Subdivision 1</b>	<b>Dictionary</b>	
7	Definitions . . . . .	18
<b>Subdivision 2</b>	<b>Key definitions</b>	
8	What is the estimated rehabilitation cost . . . . .	19
9	What is an entity's total estimated rehabilitation cost . . . . .	19
10	What is the State's total estimated rehabilitation cost . . . . .	19
11	What is the fund threshold . . . . .	19
<b>Part 2</b>	<b>Establishment of scheme</b>	
<b>Division 1</b>	<b>Scheme manager</b>	
12	Appointment . . . . .	20
13	Term of appointment . . . . .	20
14	Remuneration and conditions . . . . .	21
15	Resignation . . . . .	21
16	Acting scheme manager . . . . .	21
17	Preservation of rights . . . . .	22
18	Relationship with State . . . . .	22

Contents

---

19	Finance .....	22
20	Not statutory body for particular Acts .....	23
21	Functions .....	23
22	Powers .....	23
23	Staff services from department .....	24
<b>Division 2</b>	<b>Scheme fund and cash surety account</b>	
24	Establishment of scheme fund .....	24
25	Cash surety account .....	26
<b>Part 3</b>	<b>Operation of scheme</b>	
<b>Division 1</b>	<b>Risk category allocation</b>	
<b>Subdivision 1</b>	<b>Initial allocation</b>	
26	Application of subdivision .....	27
27	Scheme manager must make initial risk category allocation . . . .	27
28	Scheme manager must notify holder of indicative risk category allocation .....	29
29	When indicative risk category allocation becomes the initial risk category allocation .....	30
30	Period for making initial risk category allocation .....	30
31	Notice of initial risk category allocation .....	30
<b>Subdivision 2</b>	<b>Changed holder review allocation</b>	
32	Scheme manager may review risk category allocation if changed holder .....	31
33	Application to scheme manager if proposed changed holder . . .	33
34	Scheme manager must notify interested entity of indicative changed holder review allocation .....	35
35	When indicative changed holder allocation becomes the changed holder review allocation .....	35
36	Notice of changed holder review allocation .....	36
37	When changed holder review decision takes effect .....	36
<b>Subdivision 3</b>	<b>Annual review allocation</b>	
38	Annual review of risk category allocation .....	37
39	Scheme manager must notify holder of indicative annual review allocation .....	39
40	When indicative annual review allocation becomes the annual review allocation .....	40
41	Notice of annual review allocation .....	40
<b>Subdivision 4</b>	<b>Information disclosure</b>	

42	Holder must give scheme manager notice if changed holder . . .	41
43	Holder must give scheme manager notice if cessation in production	42
44	Scheme manager may require further information from holder before allocation decision . . . . .	43
45	Scheme manager may require further information from interested entity before changed holder review decision . . . . .	44
<b>Division 2</b>	<b>Liability under scheme</b>	
<b>Subdivision 1</b>	<b>Contribution to scheme fund</b>	
46	Application of subdivision . . . . .	45
47	Holder must pay contribution to scheme fund . . . . .	46
48	Rate of contribution if holder not able to give surety . . . . .	47
49	Holder must pay contribution and give surety if estimated rehabilitation cost more than fund threshold . . . . .	47
50	Refund of contribution to previous holder . . . . .	47
51	Recovery of unpaid contribution . . . . .	48
52	Notification of administering authority . . . . .	48
<b>Subdivision 2</b>	<b>Surety</b>	
53	Application of subdivision . . . . .	48
54	Scheme manager's decision about financial viability of scheme fund	49
55	Holder must give surety . . . . .	50
56	Form of surety . . . . .	52
57	When holder must give increased surety . . . . .	53
58	Release of surety . . . . .	53
59	Notification of administering authority . . . . .	54
<b>Subdivision 3</b>	<b>Fees</b>	
60	Assessment fee . . . . .	54
61	Administration fee for particular sureties . . . . .	55
62	Recovery of unpaid fee . . . . .	55
<b>Division 3</b>	<b>Claiming financial provision</b>	
<b>Subdivision 1</b>	<b>Payments from scheme fund</b>	
63	Application of subdivision . . . . .	56
64	Requesting entity may ask for payment from scheme fund . . . .	56
65	Decision of scheme manager . . . . .	57
<b>Subdivision 2</b>	<b>Realising surety</b>	
66	Application of subdivision . . . . .	58
67	Requesting entity may ask for realisation of surety . . . . .	58
68	Realisation of surety . . . . .	58

Contents

---

69	Replenishment of surety .....	59
<b>Division 4</b>	<b>Accountability</b>	
70	Guidelines .....	59
71	Scheme manager to keep Minister informed .....	60
72	Scheme annual report .....	60
73	Investigation of actuarial sustainability of scheme .....	61
<b>Division 5</b>	<b>Effect of decisions</b>	
74	Application for judicial review of particular decisions .....	62
75	Decisions of scheme manager otherwise final .....	63
76	No stay of decisions .....	63
<b>Part 4</b>	<b>Offences and proceedings</b>	
77	False or misleading statements .....	63
78	False or misleading documents .....	64
<b>Part 5</b>	<b>Confidentiality</b>	
79	Definitions for part .....	64
80	Duty of confidentiality .....	65
81	Use or disclosure for authorised purpose .....	66
82	Disclosure to particular chief executives of departments to assist in performance of functions .....	66
<b>Part 6</b>	<b>Miscellaneous</b>	
83	Advisory committee .....	67
84	Delegation .....	68
85	Protection from liability .....	68
86	Approved forms .....	68
87	Regulation-making power .....	68
88	Transitional regulation-making power .....	69
<b>Part 7</b>	<b>Transitional provisions</b>	
89	Application of part .....	69
90	Financial assurance taken to be surety given under this Act ...	70
91	Initial allocation decision not required until scheme manager gives transition notice .....	71
92	Scheme manager may require further information from holder before allocation decision .....	72
<b>Part 8</b>	<b>Amendment of Acts</b>	
<b>Division 1</b>	<b>Amendment of this Act</b>	
93	Act amended .....	73
94	Amendment of long title .....	73

<b>Division 2</b>	<b>Amendment of Environmental Protection Act 1994</b>	
95	Act amended . . . . .	73
96	Amendment of s 21A (Meaning of prescribed condition) . . . . .	73
96A	Amendment of s 49 (Decision on whether EIS may proceed) . . . . .	74
96B	Replacement of ch 3, pt 1, div 4, sdiv 2, hdg (Submissions) . . . . .	75
96C	Amendment of s 56 (Response to submissions) . . . . .	75
96D	Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS) . . . . .	77
96E	Amendment of s 56AA (Proponent may resubmit EIS) . . . . .	77
97	Amendment of ch 5, hdg (Environmental authorities and environmentally relevant activities) . . . . .	78
98	Insertion of new s 111A . . . . .	78
	111A    Meaning of stable condition . . . . .	78
99	Amendment of s 112 (Other key definitions for ch 5) . . . . .	78
100	Amendment of ch 5, pt 1, div 3, hdg (Stages of assessment process) . . . . .	80
101	Insertion of new s 114A . . . . .	80
	114A    Application of assessment process for proposed PRC plans . . . . .	80
102	Amendment of ch 5, pt 2, div 3, hdg (Applying for environmental authorities) . . . . .	80
103	Amendment of s 125 (Requirements for applications generally) . . . . .	80
104	Insertion of new ss 126B–126D . . . . .	81
	126B    Main purpose of PRC plan . . . . .	81
	126C    Requirements for PRC plan . . . . .	81
	126D    Requirements for proposed PRCP schedule . . . . .	83
105	Amendment of s 130 (Nomination of principal applicant) . . . . .	86
106	Amendment of s 131 (Meaning of minor change) . . . . .	86
107	Amendment of s 132 (Changing application) . . . . .	86
108	Amendment of s 133 (Effect on assessment process—minor changes and agreed changes) . . . . .	87
109	Amendment of s 134 (Effect on assessment process—other changes) . . . . .	87
109A	Insertion of new s 136A . . . . .	88
	136A    Administering authority must obtain report about public interest evaluation for particular applications . . . . .	88
110	Amendment of s 139 (Information stage does not apply if EIS process complete) . . . . .	89

Contents

---

111	Amendment of s 144 (When information request must be made)	90
112	Amendment of s 145 (Extending information request period) . . .	90
113	Amendment of s 150 (Notification stage does not apply to particular applications) . . . . .	91
114	Amendment of s 153 (Required content of application notice) . .	91
115	Amendment of s 160 (Right to make submission) . . . . .	92
115A	Amendment of s 165 (When does decision stage start—general)	93
115B	Insertion of new ss 167A–167B . . . . .	93
	167A Particular site-specific applications—when decision stage starts and when report about public interest evaluation is required . . . . .	93
	167B Decision stage may be suspended in particular circumstances . . . . .	94
116	Amendment of s 168 (When decision must be made—generally)	95
117	Amendment of s 172 (Deciding site-specific application) . . . . .	96
118	Insertion of new s 176A . . . . .	97
	176A Criteria for decision—proposed PRCP schedule . . .	97
119	Amendment of s 181 (Notice of decision) . . . . .	98
120	Replacement of s 190 (Nature of objections decision) . . . . .	99
	190 Requirements for objections decision . . . . .	99
121	Amendment of s 191 (Matters to be considered for objections decision) . . . . .	100
122	Replacement of s 194 (Final decision on application) . . . . .	100
	194 When administering authority must make final decision on application . . . . .	100
	194A Final decision on application . . . . .	101
	194B Matters to be considered in making final decision . . .	102
123	Replacement of ss 195 and 197 . . . . .	103
	195 Issuing environmental authority or PRCP schedule . .	104
	196 Requirements for issuing environmental authority or PRCP schedule . . . . .	104
	197 Including environmental authorities and PRC plans in register . . . . .	106
124	Amendment of s 200 (When environmental authority takes effect)	106
125	Insertion of new ch 5, pt 5, div 5A . . . . .	106
	Division 5A PRCP schedules	
	202A Requirements for PRCP schedule . . . . .	106
	202B When PRCP schedule takes effect . . . . .	106

	202C	Term of PRCP schedule . . . . .	107
	202D	PRCP schedule includes conditions . . . . .	107
	202E	Environmental authority overrides PRCP schedule . . . . .	107
126		Amendment of s 203 (Conditions generally) . . . . .	107
127		Amendment of s 205 (Conditions that must be imposed if application relates to coordinated project) . . . . .	108
128		Insertion of new s 206A . . . . .	109
	206A	Conditions for PRCP schedules . . . . .	109
129		Amendment of s 207 (Conditions that may be imposed) . . . . .	109
130		Amendment of s 208 (Condition requiring statement of compliance) . . . . .	110
131		Amendment of s 210 (Inconsistencies between particular conditions) . . . . .	110
132		Amendment of ch 5, pt 6, hdg (Amending environmental authorities by administering authority) . . . . .	110
133		Amendment of s 211 (Corrections) . . . . .	110
134		Amendment of s 212 (Amendment of particular environmental authorities to reflect NNTT conditions) . . . . .	111
135		Amendment of s 212A (Amendment of particular environmental authorities to reflect regional interests development approval conditions) . . . . .	111
136		Amendment of s 215 (Other amendments) . . . . .	112
137		Amendment of s 216 (Application of div 2) . . . . .	115
138		Amendment of s 217 (Notice of proposed amendment) . . . . .	115
139		Amendment of s 218 (Considering representations) . . . . .	115
140		Amendment of s 220 (Notice of amendment decision) . . . . .	116
141		Amendment of s 221 (Steps for amendment) . . . . .	116
142		Amendment of ch 5, pt 7, hdg (Amendment of environmental authorities by application) . . . . .	116
143		Amendment of s 223 (Definitions for pt 7) . . . . .	116
144		Amendment of s 224 (Who may apply) . . . . .	119
145		Replacement of s 226 (Requirements for amendment application generally) . . . . .	119
	226	Requirements for amendment applications generally . . . . .	119
	226A	Requirements for amendment applications for environmental authorities . . . . .	119
	226B	Requirements for amendment applications for PRCP schedules . . . . .	121
146		Amendment of s 227A (Early refusal of particular amendment applications and requirement to replace environmental authority) . . . . .	122

Contents

---

147	Amendment of s 228 (Assessment level decision for amendment application) . . . . .	122
148	Amendment of s 232 (Relevant application process applies) . . .	122
149	Amendment of s 235 (Criteria for deciding amendment application)	123
150	Amendment of s 240 (Deciding amendment application) . . . . .	124
151	Amendment of s 241 (Criteria for deciding amendment application)	124
152	Amendment of s 242 (Steps after deciding amendment application)	124
153	Amendment of ch 5, pt 8, hdg (Amalgamating and de-amalgamating environmental authorities) . . . . .	124
154	Amendment of s 246 (Requirements for amalgamation application)	125
155	Amendment of s 247 (Deciding amalgamation application) . . . .	125
156	Amendment of s 248 (Steps after deciding amalgamation application) . . . . .	125
157	Replacement of s 250 (Relationship between amendment application and amalgamation application) . . . . .	126
	250 Relationship between amendment application and amalgamation application . . . . .	126
158	Amendment of s 250B (Requirements for de-amalgamation application) . . . . .	126
159	Replacement of s 250C (De-amalgamation) . . . . .	127
	250C De-amalgamation . . . . .	127
160	Amendment of s 250D (When de-amalgamation takes effect) . .	128
161	Amendment of s 262 (Requirements for surrender application) .	128
162	Amendment of ch 5, pt 10, div 3, hdg (Final rehabilitation reports)	129
163	Insertion of new s 264A . . . . .	129
	264A Requirements for post-mining management report . .	130
164	Amendment of s 268 (Criteria for decision generally) . . . . .	130
165	Amendment of s 268A (Criteria for decision—prescribed resource activities in overlapping area) . . . . .	131
166	Amendment of s 269 (Restrictions on giving approval) . . . . .	131
167	Insertion of new s 269A . . . . .	132
	269A Effect of approval of surrender application on PRCP schedule . . . . .	132
168	Amendment of s 275 (Steps after deciding surrender application)	132
169	Insertion of new s 275A . . . . .	132
	275A Administering authority may amend PRCP schedule	133
170	Amendment of s 278 (Cancellation or suspension by administering authority) . . . . .	134

171	Insertion of new s 278A . . . . .	134
	278A Effect of cancellation or suspension of environmental authority on PRCP schedule . . . . .	135
172	Amendment of s 284E (Restrictions on giving approval) . . . . .	135
173	Replacement of ch 5, pt 12 (General provisions) . . . . .	135
	Part 12 Auditing PRCP schedules	
	Division 1 Requirements for audit	
	285 PRCP schedule must be audited . . . . .	136
	286 Requirements for report about PRCP schedule audit	136
	Division 2 Steps after receiving audit report and rehabilitation auditors	
	287 Administering authority may request further information	138
	288 Rehabilitation auditors . . . . .	138
	Part 13 Plan of operations	
	289 Definition for part . . . . .	138
	290 Application of part . . . . .	139
	291 Plan of operations required before acting under petroleum lease . . . . .	139
	292 Requirements for plan of operations . . . . .	139
	293 Amending or replacing plan . . . . .	141
	294 Failure to comply with plan of operations . . . . .	142
	295 Environmental authority overrides plan . . . . .	142
	Part 14 Matters relating to costs of rehabilitation	
	Division 1 Estimated rehabilitation costs for resource activities and ERC decisions	
	296 Definitions for division . . . . .	143
	297 Condition about ERC decision . . . . .	143
	298 Applying for ERC decision . . . . .	144
	299 Administering authority may require additional information . . . . .	145
	300 Making ERC decision . . . . .	145
	301 Notice of decision . . . . .	147
	302 Application for new ERC decision before expiry . . . . .	147
	303 Administering authority may direct holder to re-apply for ERC decision . . . . .	148
	304 When holder must re-apply for ERC decision . . . . .	149
	305 Effect of re-application on ERC decision . . . . .	150

Contents

---

306	Effect of amalgamation or de-amalgamation of environmental authority on ERC decision . . . . .	150
Division 2	Financial assurance for prescribed ERAs	
307	Application of division . . . . .	152
308	Requirement to give financial assurance for environmental authority . . . . .	153
309	Application for decision about amount and form of financial assurance . . . . .	153
310	Deciding amount and form of financial assurance . . . . .	154
311	Notice of decision . . . . .	155
312	Application to amend or discharge financial assurance . . . . .	155
313	Administering authority may require compliance statement . . . . .	156
314	Deciding application . . . . .	156
315	Power to require a change to financial assurance . . . . .	157
316	Replenishment of financial assurance . . . . .	158
Division 3	Claiming	
316A	Definitions for division . . . . .	159
316B	References to EPA assurance or surety . . . . .	159
316C	Application of division . . . . .	160
316D	Administering authority may claim or realise EPA assurance or ask scheme manager for payment . . . . .	160
316E	Notice about claiming or realising EPA assurance or asking scheme manager for payment . . . . .	161
316F	Considering representations . . . . .	161
316G	Decision . . . . .	162
Part 15	General provisions	
Division 1	Requirement for holders of PRC plan	
316H	Obligation to give amended rehabilitation planning part to administering authority . . . . .	162
Division 2	Annual notices, fees and returns	
316I	Annual fee . . . . .	163
316IA	Annual returns . . . . .	164
316J	Particular requirement for annual returns for PRCP schedule holders . . . . .	165
316K	Particular requirement for annual return for CSG environmental authority . . . . .	165
Division 3	Changing anniversary day	

	316L	Changing anniversary day . . . . .	166
	316M	Deciding application . . . . .	166
	316N	Notice of decision . . . . .	167
	316O	When decision takes effect . . . . .	167
	Division 4	Non-compliance with eligibility criteria	
	316P	Requirement to replace environmental authority if non-compliance with eligibility criteria . . . . .	167
	Division 4A	Public interest evaluations	
	316PA	Public interest evaluations . . . . .	169
	316PB	Requirements for report about particular public interest evaluations . . . . .	170
	316PC	Review of report . . . . .	171
	316PD	Costs of public interest evaluations and reviews . . . . .	174
	316PE	Confidentiality of public interest evaluation . . . . .	174
	Division 5	Miscellaneous provisions	
	316Q	Administering authority may seek advice, comment or information about application . . . . .	175
	316R	Decision criteria are not exhaustive . . . . .	176
174		Amendment of s 318Z (What is progressive certification) . . . . .	176
175		Amendment of s 318ZB (Continuing responsibility of environmental authority holder relating to certified rehabilitated area) . . . . .	176
176		Amendment of s 318ZD (Requirements for progressive certification application) . . . . .	177
177		Amendment of s 318ZF (Requirements for progressive rehabilitation report) . . . . .	177
178		Amendment of s 318ZI (Criteria for decision) . . . . .	178
179		Amendment of s 318ZJ (Steps after making decision) . . . . .	178
180		Insertion of new s 318ZJA . . . . .	179
	318ZJA	Administering authority may amend PRCP schedule	179
181		Amendment of s 320A (Application of div 2) . . . . .	180
182		Amendment of s 320B (Duty of particular employees to notify employer) . . . . .	180
183		Amendment of s 322 (Administering authority may require environmental audit about environmental authority) . . . . .	180
184		Amendment of s 324 (Content of audit notice) . . . . .	181
185		Amendment of s 326 (Administering authority may conduct environmental audit for resource activities) . . . . .	181
186		Amendment of s 326A (Administering authority's costs of environmental audit or report) . . . . .	181

Contents

---

187	Amendment of s 326H (Action following acceptance of report) .	181
188	Amendment of s 330 (What is a transitional environmental program) .....	182
189	Amendment of s 358 (When order may be issued) .....	182
190	Insertion of new ch 8, pt 2, div 1A .....	182
	Division 1A      PRC plans	
	431A      PRCP schedule required for particular environmentally relevant activities .....	182
	431B      Contravention of condition of PRCP schedule .....	183
	431C      Holder of PRCP schedule responsible for ensuring conditions of PRCP schedule complied with .....	183
191	Amendment of s 452 (Entry of place—general) .....	184
192	Amendment of s 458 (Order to enter land to conduct investigation or conduct work) .....	184
193	Amendment of s 493A (When environmental harm or related acts are unlawful) .....	185
194	Amendment of s 520 (Dissatisfied person) .....	185
195	Replacement of s 522B (Stay of decision to issue environmental protection order) .....	186
	522B      Stay of particular decisions if unacceptable risk of environmental harm .....	186
	522C      Effect of stay of ERC decision .....	186
196	Amendment of s 523 (Review decisions subject to Land Court appeal) .....	187
197	Amendment of s 524 (Right of appeal) .....	187
198	Amendment of s 525 (Appeal period) .....	187
199	Insertion of new s 529 .....	187
	529      Effect of stay on particular decisions .....	187
200	Amendment of s 530 (Decision for appeals) .....	187
201	Amendment of s 540 (Registers to be kept by administering authority) .....	188
202	Insertion of new s 550 .....	189
	550      Chief executive may make guidelines for particular matters under ch 5 .....	189
203	Insertion of new ch 13, pt 27 .....	189
	Part 27      Transitional provisions for Mineral and Energy Resources (Financial Provisioning) Act 2018	
	750      Definitions for part .....	190

751	Pre-amended Act applies to mining EA applicants . . .	192
752	Existing plan of operations for petroleum lease . . . .	193
753	Plan of operations for mining lease . . . . .	193
754	Requirement for mining EA holders to give proposed PRC plan . . . . .	195
755	Administering authority must assess proposed PRC plan . . . . .	197
755A	Application of requirement for public interest evaluation for application stage . . . . .	198
755B	Application of notification stage . . . . .	199
756	Administering authority may amend environmental authority . . . . .	200
757	Applications for decision about amount and form of financial assurance . . . . .	201
758	When existing condition requiring financial assurance ends . . . . .	202
759	Claiming on or realising financial assurance started before the commencement . . . . .	203
760	Existing applications to amend or discharge financial assurance . . . . .	204
761	ERC decisions for environmental authorities for resource activities . . . . .	205
762	ERC decisions for environmental authorities for resource activities if s 761 does not apply . . . . .	207
763	Application of s 298 before PRC plan is in force . . . .	208
764	Application of s 21A of amended Act . . . . .	208
765	Transfer of funds . . . . .	208
766	Transitional regulation-making power . . . . .	209
204	Amendment of sch 2 (Original decisions) . . . . .	209
205	Amendment of sch 4 (Dictionary) . . . . .	212
<b>Division 3</b>	<b>Amendment of Mineral and Energy Resources (Common Provisions) Act 2014</b>	
206	Act amended . . . . .	218
207	Insertion of new s 20A . . . . .	218
20A	Failure to pay contribution to scheme fund or give surety prevents registration of prescribed dealing . . . . .	218
<b>Division 4</b>	<b>Amendment of Mineral Resources Act 1989</b>	
208	Act amended . . . . .	219
209	Amendment of s 123 (Property remaining on former mining claim may be	

Contents

---

	sold etc.) . . . . .	219
210	Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.) . . . . .	220
211	Amendment of s 298 (Mining other minerals or use for other purposes) . . . . .	220
212	Amendment of s 314 (Property remaining on former mining lease may be sold) . . . . .	220
213	Amendment of s 344 (Definitions for pt 4) . . . . .	220
214	Amendment of s 344A (Authorised person to carry out rehabilitation activities) . . . . .	221
215	Amendment of sch 2 (Dictionary) . . . . .	221
<b>Division 5</b>	<b>Amendment of Right to Information Act 2009</b>	
216	Act amended . . . . .	221
217	Amendment of sch 3 (Exempt information) . . . . .	221
<b>Division 5A</b>	<b>Amendment of State Development and Public Works Organisation Act 1971</b>	
218A	Act amended . . . . .	222
218B	Amendment of s 47C (Application of Coordinator-General's report to environmental authority) . . . . .	222
<b>Schedule 1</b>	<b>Dictionary</b> . . . . .	223

# 2018

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## A Bill

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**An Act to establish a financial provisioning scheme to deal with the environmental impacts of resource activities, and to amend this Act, the *Environmental Protection Act 1994*, the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Mineral Resources Act 1989*, the *Right to Information Act 2009* and the *State Development and Public Works Organisation Act 1971* for particular purposes**

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[s 1]

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## **The Parliament of Queensland enacts—**

# **Part 1 Preliminary**

## **Division 1 Introduction**

### **1 Short title**

This Act may be cited as the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

## **Division 2 Purposes and application of Act**

### **3 Main purposes**

The main purposes of this Act are—

- (a) to provide for holders of authorities to pay a contribution to the scheme fund, or give a surety, for the authorities; and
- (b) to provide a way to manage the risk to the State of incurring costs and expenses if the holder of an authority or small scale mining tenure does not comply with the holder's obligations under the authority or tenure; and
- (c) to provide a source of funds to the State for costs and expenses relating to preventing or minimising environmental harm, or rehabilitating or restoring the environment, or securing compliance with an authority or small scale mining tenure; and

- (d) to provide a source of funds to the State for—
  - (i) rehabilitation activities at land on which an abandoned mine exists; and
  - (ii) remediation activities in relation to an abandoned operating plant; and
  - (iii) research that may contribute to the rehabilitation of land on which resource activities have been carried out.

#### **4 How main purposes to be achieved**

The main purposes are to be achieved by—

- (a) establishing a financial provisioning scheme to deal with the environmental impacts of resource activities (the *scheme*), including, for example—
  - (i) a scheme fund; and
  - (ii) a cash surety account; and
- (b) providing for the appointment of a person to manage the scheme; and
- (c) providing for the person mentioned in paragraph (b) to make payments from the scheme fund and the cash surety account, enter into surety arrangements, and call on and release sureties.

#### **5 Relationship with Environmental Protection Act 1994**

- (1) This Act does not exclude, limit or otherwise affect the operation of the *Environmental Protection Act 1994* unless this Act otherwise expressly provides.
- (2) Without limiting subsection (1), this Act does not exclude, limit or otherwise affect the duties, obligations, requirements or restrictions imposed, under the *Environmental Protection Act 1994*, on the holder of an authority or small scale mining tenure.

[s 6]

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## **6 Act does not affect other rights or remedies**

- (1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) To remove any doubt, it is declared that nothing in this Act creates an obligation on the State to take action, or incur costs and expenses, to—
  - (a) prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of an activity under an authority or small scale mining tenure; or
  - (b) secure compliance with an authority or small scale mining tenure.

## **Division 3 Interpretation**

### **Subdivision 1 Dictionary**

## **7 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

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## Subdivision 2 Key definitions

### 8 What is the *estimated rehabilitation cost*

The *estimated rehabilitation cost*, for an environmental authority for a resource activity (an *authority*), is the amount of the estimated cost of the following, for an ERC period, as decided under the *Environmental Protection Act 1994*, section 300 by the administering authority—

- (a) rehabilitating the land on which the resource activity is carried out;
- (b) preventing or minimising environmental harm, or rehabilitating or restoring the environment, in relation to the resource activity.

### 9 What is an entity's *total estimated rehabilitation cost*

The *total estimated rehabilitation cost*, for an entity, is the sum of the estimated rehabilitation cost for each authority for which—

- (a) a contribution to the scheme fund is payable; and
- (b) the entity is the holder or, if there is more than 1 holder of the authority, the relevant holder.

### 10 What is the State's *total estimated rehabilitation cost*

The *total estimated rehabilitation cost*, for the State, is the sum of the estimated rehabilitation cost for each authority granted by the State.

### 11 What is the *fund threshold*

- (1) The *fund threshold* is—
  - (a) the amount prescribed by regulation for this paragraph; or

[s 12]

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- (b) if no amount is prescribed under paragraph (a)—  
\$450,000,000.
- (2) Before recommending to the Governor in Council that an amount be prescribed under subsection (1)(a), the Minister must have regard to—
  - (a) the percentage of the State’s total estimated rehabilitation cost that the amount represents; and
  - (b) the effect of the percentage under paragraph (a) on the financial viability of the scheme fund; and
  - (c) if the actuarial sustainability of the scheme has been investigated under section 73—the actuary’s opinion, and the scheme manager’s recommendation, about whether the fund threshold should be changed.

## **Part 2                      Establishment of scheme**

### **Division 1                      Scheme manager**

#### **12              Appointment**

- (1) There is to be a scheme manager.
- (2) The scheme manager is to be appointed by the Governor in Council.
- (3) The scheme manager is appointed under this Act and not the *Public Service Act 2008*.
- (4) The scheme manager may be appointed on a full-time or part-time basis.

#### **13              Term of appointment**

- (1) The scheme manager holds office for the term stated in the scheme manager’s instrument of appointment.
- (2) The stated term must not be more than 5 years.

- (3) The scheme manager may be reappointed.

#### **14 Remuneration and conditions**

- (1) The scheme manager is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The remuneration must not be reduced during the scheme manager's term of office without the scheme manager's written consent.
- (3) The scheme manager holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

#### **15 Resignation**

The scheme manager may, at any time, resign office as scheme manager by signed notice given to the Minister.

#### **16 Acting scheme manager**

- (1) The Minister may appoint a person to act as scheme manager—
- (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the scheme manager is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) However, the person can not be appointed for more than 6 months in any 12 month period.
- (3) The acting scheme manager is appointed under this Act and not the *Public Service Act 2008*.
- (4) It does not matter whether the appointee is or is not a public service officer.

[s 17]

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## **17 Preservation of rights**

- (1) This section applies if a public service officer is appointed as the scheme manager.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the scheme manager were a continuation of service as a public service officer.
- (3) Without limiting subsection (2), the person's appointment does not—
  - (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (b) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
  - (c) entitle the person to a payment or other benefit because the person is no longer a public service officer.

## **18 Relationship with State**

- (1) The scheme manager represents the State.
- (2) Without limiting subsection (1), the scheme manager has the status, privileges and immunities of the State.

## **19 Finance**

- (1) The scheme manager is a part of the department for the purposes of the *Financial Accountability Act 2009*.
- (2) Despite the *Financial Accountability Act 2009*, section 76, the accountable officer for the department under that Act may delegate the officer's functions under that Act to the scheme manager.

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## 20 Not statutory body for particular Acts

The scheme manager is not a statutory body for the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

## 21 Functions

- (1) The scheme manager has the following functions—
  - (a) allocating authorities to a risk category;
  - (b) reviewing the risk category to which authorities have been allocated;
  - (c) managing the scheme;
  - (d) setting investment objectives for the scheme fund or part of the scheme fund and establishing investment strategies and policies to achieve the objectives.
- (2) In performing the function under subsection (1)(d), the scheme manager must ask for advice from—
  - (a) the Long Term Asset Advisory Board; or
  - (b) if the Treasurer nominates another entity for this paragraph—the nominated entity.
- (3) In this section—

***Long Term Asset Advisory Board*** means the Long Term Asset Advisory Board established under the *Queensland Treasury Corporation Act 1988*, section 10.

## 22 Powers

- (1) Subject to subsection (3), the scheme manager has all the powers of an individual and may, for example—
  - (a) enter into contracts; and
  - (b) acquire, hold, deal with and dispose of property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and

[s 23]

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- (e) do anything else necessary or convenient to be done in the performance of the scheme manager's functions.
- (2) Subject to subsection (3), the scheme manager also has the powers given to the scheme manager under this Act or another Act.
- (3) The scheme manager does not have power to borrow money.

### **23 Staff services from department**

- (1) The chief executive may, at the scheme manager's request, assign public service employees of the department to perform work for the scheme manager.
- (2) A person assigned to perform work for the scheme manager under subsection (1) is not subject to the direction of the chief executive in relation to the work.

## **Division 2                      Scheme fund and cash surety account**

### **24 Establishment of scheme fund**

- (1) The Financial Provisioning Fund (the *scheme fund*) is established.
- (2) Accounts for the scheme fund must be kept as part of the departmental accounts of the department.
- (3) Amounts received for the scheme fund—
  - (a) must be deposited in a departmental financial institution account of the department; and
  - (b) may be deposited in an account used for depositing other amounts of the department.
- (4) The chief executive (environment) must pay into the scheme fund an amount recovered under the *Environmental Protection Act 1994* in relation to costs and expenses for which the chief

executive (environment) receives an amount from the scheme manager under section 65.

- (5) The Treasurer may advance amounts to the scheme fund on the terms the Treasurer considers appropriate.
- (6) An advance by the Treasurer under subsection (5) is to be paid by the Treasurer out of the consolidated fund which is appropriated accordingly.
- (7) Amounts received for the scheme fund include the following—
  - (a) contributions to the scheme fund paid under this Act;
  - (b) fees paid under this Act;
  - (c) amounts received from the chief executive (environment) under subsection (4);
  - (d) amounts advanced by the Treasurer;
  - (e) amounts earned as interest on the cash surety account deposited into the scheme fund by the scheme manager;
  - (f) amounts earned as interest on the scheme fund.
- (8) An amount mentioned in subsection (7) is a controlled receipt for the *Financial Accountability Act 2009*.
- (9) An amount is payable from the scheme fund for—
  - (a) the purposes of this Act, including, for example, a cost related to the administration of the scheme or staff services under section 23; or
  - (b) the repayment of an amount advanced to the scheme fund by the Treasurer.
- (10) In this section—

***departmental financial institution account***, of the department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

[s 25]

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## **25 Cash surety account**

- (1) The scheme manager must keep a separate bank account (a *cash surety account*) with a financial institution for the management of cash amounts paid as surety for an authority or small scale mining tenure.
- (2) Accounts for the cash surety account must be kept as part of the departmental accounts of the department.
- (3) The scheme manager must pay into the cash surety account a cash amount paid as surety for an authority or small scale mining tenure.
- (4) The scheme manager may make payments from the cash surety account only for—
  - (a) giving an amount to a requesting entity under section 68(b); or
  - (b) depositing an amount of interest earned on the account into the scheme fund; or
  - (c) releasing a surety under section 58.
- (5) The scheme manager may invest an amount in the cash surety account only in—
  - (a) deposits with a financial institution; or
  - (b) investment arrangements mentioned in the *Statutory Bodies Financial Arrangements Act 1982*, section 44(1)(d).
- (6) An investment mentioned in subsection (5) must be—
  - (a) at call; or
  - (b) for a fixed time of not more than 1 year.

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## Part 3                      Operation of scheme

### Division 1                Risk category allocation

#### Subdivision 1        Initial allocation

#### 26      Application of subdivision

- (1) This subdivision applies if—
  - (a) the administering authority decides, under the *Environmental Protection Act 1994*, section 300, the estimated rehabilitation cost for an authority; and
  - (b) the estimated rehabilitation cost decided by the administering authority is equal to or more than the following amount (the *prescribed ERC amount*)—
    - (i) the amount prescribed by regulation for this subparagraph;
    - (ii) if no amount is prescribed under subparagraph (i)—\$100,000.
- (2) If the administering authority makes more than 1 decision under the *Environmental Protection Act 1994*, section 300 in relation to an authority, this subdivision applies only in relation to the first decision for which the estimated rehabilitation cost is equal to or more than the prescribed ERC amount.

#### 27      Scheme manager must make initial risk category allocation

- (1) The scheme manager must decide to allocate the authority to 1 of the following risk categories (the *initial risk category allocation*)—
  - (a) very low;
  - (b) low;

[s 27]

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- (c) moderate;
  - (d) high.
- (2) In deciding the initial risk category allocation, the scheme manager—
- (a) must consider—
    - (i) the scheme manager’s opinion of the probability of the State incurring costs and expenses because the holder of the authority has not prevented or minimised environmental harm, or rehabilitated or restored the environment, in relation to a resource activity carried out under, or to ensure compliance with, the authority; and
    - (ii) submissions made under section 28; and
    - (iii) the scheme manager guidelines; and
  - (b) may consider any other matter the scheme manager considers relevant to the decision.
- (3) In forming an opinion under subsection (2)(a)(i), the scheme manager—
- (a) must consider—
    - (i) the financial soundness of the holder; and
    - (ii) the scheme manager guidelines; and
  - (b) may consider—
    - (i) the characteristics of a resource project to which the authority relates; and
    - (ii) any other matter the scheme manager considers relevant to forming the opinion.
- (4) In considering the financial soundness of the holder, the scheme manager may consider the financial soundness of a parent corporation of the holder.
- (5) If there is more than 1 holder, the scheme manager—
- (a) may consider the financial soundness of any or all of the holders; and

- (b) in considering the financial soundness of any or all of the holders, may consider the financial soundness of a parent corporation of any or all of the holders; and
- (c) must assign the authority to only 1 of the holders (the *relevant holder* of the authority).

## 28 **Scheme manager must notify holder of indicative risk category allocation**

- (1) The scheme manager must, before deciding the initial risk category allocation, give the holder a notice (a *notice of indicative decision*) stating—
  - (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative risk category allocation*); and
  - (b) the reasons for the indicative risk category allocation; and
  - (c) if section 27(5) applies—the relevant holder of the authority under section 27(5)(c); and
  - (d) whether a contribution to the scheme fund, or a surety, is required under the indicative risk category allocation; and
  - (e) that the holder may, within 20 business days after the notice of indicative decision is given—
    - (i) make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or
    - (ii) give the scheme manager notice that the holder accepts the indicative risk category allocation.
- (2) The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the holder.

[s 29]

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## **29 When indicative risk category allocation becomes the initial risk category allocation**

The scheme manager must decide to allocate the authority to the risk category stated under section 28(1)(a) in the notice of indicative decision if the holder—

- (a) does not make submissions under section 28; or
- (b) gives the scheme manager a notice under section 28 that the holder accepts the indicative risk category allocation.

## **30 Period for making initial risk category allocation**

The scheme manager must decide the initial risk category allocation—

- (a) if the holder gives the scheme manager a notice under section 28 that the holder accepts the indicative risk category allocation—within 5 business days after the scheme manager receives the notice; or
- (b) if the holder does not make submissions under section 28—within 5 business days after the period in which the holder was permitted to make submissions ends; or
- (c) if the holder makes submissions under section 28—within 20 business days after the scheme manager receives the submissions; or
- (d) if the scheme manager requires the holder, under section 44, to give the scheme manager information or a document the scheme manager reasonably requires to make the decision—within 20 business days after the scheme manager receives the information or document.

## **31 Notice of initial risk category allocation**

The scheme manager must, as soon as practicable after deciding the initial risk category allocation, give the holder a notice stating—

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- (a) the day the risk category allocation was decided (the *initial allocation day* for the authority); and
  - (b) the initial risk category allocation; and
  - (c) if section 27(5) applies—the relevant holder of the authority under section 27(5)(c); and
  - (d) the amount of the contribution to the scheme fund, or surety, required under division 2 in relation to the authority, and when the amount must be paid or given; and
  - (e) the amount of the assessment fee for the decision, and when the fee must be paid.

## Subdivision 2      **Changed holder review allocation**

### 32      **Scheme manager may review risk category allocation if changed holder**

- (1) This section applies if—
  - (a) an authority is allocated to a risk category; and
  - (b) the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount; and
  - (c) either—
    - (i) an entity applies under the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 19 for approval to register a prescribed dealing under section 17 of that Act that is—
      - (A) an assessable transfer, of a resource authority relating to the authority, to another entity (the *changed holder*); or
      - (B) a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder's share in the resource authority will

[s 32]

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be transferred to another holder of the resource authority (also the *changed holder*); or

- (ii) either of the following changes happen—
  - (A) an entity starts or stops controlling a holder of the authority (also the *changed holder*) under the Corporations Act, section 50AA;
  - (B) a holder of the authority (also the *changed holder*) starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.
- (2) The scheme manager may—
  - (a) review the risk category to which the authority is allocated; and
  - (b) decide to confirm or change the risk category to which the authority is allocated (the *changed holder review allocation*).
- (3) In making the changed holder review allocation, the scheme manager—
  - (a) must consider—
    - (i) the scheme manager’s opinion of the probability mentioned in section 27(2)(a)(i) having regard to the changed holder; and
    - (ii) submissions made under section 34; and
    - (iii) the scheme manager guidelines; and
  - (b) may consider any other matter the scheme manager considers relevant.
- (4) In forming an opinion under subsection (3)(a)(i), the scheme manager—
  - (a) must consider—
    - (i) the financial soundness of the changed holder; and
    - (ii) the scheme manager guidelines; and

- (b) may consider—
  - (i) the characteristics of a resource project to which the authority relates; and
  - (ii) any other matter the scheme manager considers relevant to forming the opinion.
- (5) In considering the financial soundness of the changed holder, the scheme manager may consider the financial soundness of a parent corporation of the changed holder.
- (6) If there is more than 1 holder, or changed holder, of the authority, the scheme manager—
  - (a) may consider the financial soundness of any or all of the holders, or changed holders, of the authority; and
  - (b) in considering the financial soundness of any or all of the holders, or changed holders, of the authority, may consider the financial soundness of a parent corporation of any or all of the holders, or changed holders, of the authority; and
  - (c) must assign the authority to only 1 of the holders, or changed holders, of the authority (the *relevant holder* of the authority).
- (7) For subsection (1)(c)(i), a resource authority relates to an authority if the resource authority authorises the carrying out of a resource activity for the authority.

### **33 Application to scheme manager if proposed changed holder**

- (1) This section applies if—
  - (a) an authority is allocated to a risk category; and
  - (b) the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount; and
  - (c) either—
    - (i) an entity proposes to apply under the *Mineral and Energy Resources (Common Provisions) Act 2014*,

[s 33]

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section 19 for approval to register a prescribed dealing under section 17 of that Act that is—

- (A) an assessable transfer, of a resource authority relating to the authority, to another entity (the *changed holder*); or
  - (B) a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder's share in the resource authority will be transferred to another holder of the resource authority (also the *changed holder*); or
- (ii) either of the following changes is proposed—
- (A) an entity is to start or stop controlling a holder of the authority (also the *changed holder*) under the Corporations Act, section 50AA;
  - (B) a holder of the authority (also the *changed holder*) is to start or stop being a subsidiary of a corporation under the Corporations Act, section 46.
- (2) A holder of the authority, or the changed holder with the consent of a holder of the authority, may apply to the scheme manager to make a changed holder review allocation as if—
- (a) for subsection (1)(c)(i)—the application for approval to register the prescribed dealing had been made; or
  - (b) for subsection (1)(c)(ii)—the change had happened.
- (3) The scheme manager must make the changed holder review allocation only if the application is accompanied by the assessment fee for the decision.
- (4) For subsection (1)(c)(i), a resource authority relates to an authority if the resource authority authorises the carrying out of a resource activity for the authority.

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**34 Scheme manager must notify interested entity of indicative changed holder review allocation**

- (1) The scheme manager must, before deciding the changed holder review allocation, give the entity mentioned in section 32(1)(c)(i), each holder of an authority mentioned in section 32(1)(c)(ii), or the applicant under section 33(2) (each the *interested entity* for the authority), a notice (the *notice of indicative decision*) stating—
- (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative changed holder allocation*); and
  - (b) the reasons for the indicative changed holder allocation; and
  - (c) if section 32(6) applies—the relevant holder of the authority under section 32(6)(c); and
  - (d) whether a contribution to the scheme fund, or a surety, is required under the indicative changed holder allocation; and
  - (e) that the interested entity may, within 20 business days after the notice of indicative decision is given—
    - (i) make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or
    - (ii) give the scheme manager notice that the interested entity accepts the indicative changed holder allocation.
- (2) The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the interested entity.

**35 When indicative changed holder allocation becomes the changed holder review allocation**

The scheme manager must decide to allocate the authority to the risk category stated under section 34(1)(a) in the notice of indicative decision if the interested entity—

[s 36]

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- (a) does not make submissions under section 34; or
- (b) gives the scheme manager a notice under section 34 that the interested entity accepts the indicative changed holder allocation.

### **36 Notice of changed holder review allocation**

The scheme manager must, as soon as practicable after deciding the changed holder review allocation, give a notice to the interested entity stating—

- (a) the day the changed holder review allocation was decided (the *changed holder review day* for the authority); and
- (b) the risk category to which the authority is allocated under the changed holder review allocation; and
- (c) if section 32(6) applies—the relevant holder of the authority under section 32(6)(c); and
- (d) the amount of the contribution to the scheme fund, or surety, required under division 2 in relation to the authority, and when the amount must be paid or given; and
- (e) the amount of the assessment fee for the decision, and when the fee must be paid, unless the assessment fee has been paid under section 33; and
- (f) when the changed holder review decision takes effect.

### **37 When changed holder review decision takes effect**

- (1) The changed holder review decision takes effect—
  - (a) for an application mentioned in section 32(1)(c)(i)—if and when the application is approved under the *Mineral and Energy Resources (Common Provisions) Act 2014*; or

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- (b) for a change mentioned in section 32(1)(c)(ii)—on the day that is 10 business days after the notice under section 36 is given to the interested entity; or
  - (c) for a proposed application mentioned in section 33(1)(c)(i)—if and when the application is made and approved under the *Mineral and Energy Resources (Common Provisions) Act 2014*; or
  - (d) for a proposed change mentioned in section 33(1)(c)(ii)—if and when the proposed change happens.
- (2) However—
- (a) subsection (1)(c) applies only if the proposed application is made within the prescribed period after the notice under section 36 is given to the interested entity; and
  - (b) subsection (1)(d) applies only if the proposed change happens within the prescribed period after the notice under section 36 is given to the interested entity.
- (3) In this section—
- prescribed period* means—
- (a) the period prescribed by regulation for this paragraph; or
  - (b) if no period is prescribed under paragraph (a)—6 months.

## **Subdivision 3      Annual review allocation**

### **38      Annual review of risk category allocation**

- (1) This section applies if—
  - (a) an authority is allocated to a risk category; and
  - (b) the estimated rehabilitation cost for the authority is equal to or more than the prescribed ERC amount.
- (2) The scheme manager must, within 30 business days before each anniversary day for the authority—

[s 38]

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- (a) review the risk category to which the authority is allocated; and
  - (b) decide to confirm or change the risk category to which the authority is allocated (the *annual review allocation*).
- (3) In making the annual review allocation, the scheme manager—
- (a) must consider—
    - (i) the scheme manager’s opinion of the probability mentioned in section 27(2)(a)(i); and
    - (ii) submissions made under section 39; and
    - (iii) the scheme manager guidelines; and
  - (b) may consider any other matter the scheme manager considers relevant.
- (4) In forming an opinion under subsection (3)(a)(i), the scheme manager—
- (a) must consider—
    - (i) the financial soundness of the holder; and
    - (ii) the scheme manager guidelines; and
  - (b) may consider—
    - (i) the characteristics of a resource project to which the authority relates; and
    - (ii) any other matter the scheme manager considers relevant to forming the opinion.
- (5) In considering the financial soundness of the holder, the scheme manager may consider the financial soundness of a parent corporation of the holder.
- (6) If there is more than 1 holder, the scheme manager—
- (a) may consider the financial soundness of any or all of the holders; and

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- (b) in considering the financial soundness of any or all of the holders, may consider the financial soundness of a parent corporation of any or all of the holders; and
  - (c) must assign the authority to only 1 of the holders (the *relevant holder* of the authority).
- (7) In this section—
- anniversary day*, for an authority, means—
- (a) if a changed holder review decision takes effect in relation to the authority—the day in each year that is the anniversary of the changed holder review day for the authority; or
  - (b) otherwise—the day in each year that is the anniversary of the initial allocation day for the authority.

### **39 Scheme manager must notify holder of indicative annual review allocation**

- (1) The scheme manager must, before deciding the annual review allocation, give the holder a notice (the *notice of indicative decision*) stating—
  - (a) the risk category to which the scheme manager intends to allocate the authority (the *indicative annual review allocation*); and
  - (b) the reasons for the indicative annual review allocation; and
  - (c) if section 38(6) applies—the relevant holder of the authority under section 38(6)(c); and
  - (d) whether a contribution to the scheme fund, or a surety, is required under the indicative annual review allocation; and
  - (e) that the holder may, within 20 business days after the notice of indicative decision is given—
    - (i) make submissions to the scheme manager about a matter mentioned in paragraph (a), (b), (c) or (d); or

[s 40]

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- (ii) give the scheme manager notice that the holder accepts the indicative annual review allocation.
- (2) The scheme manager may extend the period mentioned in subsection (1)(e) by notice given to the holder.

#### **40 When indicative annual review allocation becomes the annual review allocation**

The scheme manager must decide to allocate the authority to the risk category stated under section 39(1)(a) in the notice of indicative decision if the holder—

- (a) does not make submissions under section 39; or
- (b) gives the scheme manager a notice under section 39 that the holder accepts the indicative annual review allocation.

#### **41 Notice of annual review allocation**

The scheme manager must, as soon as practicable after deciding the annual review allocation, give a notice to the holder stating—

- (a) the day the annual review allocation was decided (the *annual review day* for the authority); and
- (b) the risk category to which the authority is allocated under the annual review allocation; and
- (c) if section 38(6) applies—the relevant holder of the authority under section 38(6)(c); and
- (d) the amount of the contribution to the scheme fund, or surety, required under division 2 in relation to the authority, and when the amount must be paid or given; and
- (e) the amount of the assessment fee for the decision, and when the fee must be paid.

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## Subdivision 4 Information disclosure

### 42 Holder must give scheme manager notice if changed holder

- (1) If an authority has been allocated under this division to a risk category, the holder of the authority must give the scheme manager a notice under this section if—
  - (a) an entity applies under the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 19 for approval to register a prescribed dealing under section 17 of that Act that is—
    - (i) an assessable transfer, of a resource authority relating to the authority, to another entity; or
    - (ii) a non-assessable transfer, of a resource authority relating to the authority, that is a transfer of the resource authority or of a share in the resource authority, if part of 1 holder's share in the resource authority will be transferred to another holder of the resource authority; or
  - (b) either of the following changes happen—
    - (i) an entity starts or stops controlling the holder under the Corporations Act, section 50AA;
    - (ii) the holder starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.

Maximum penalty—100 penalty units.

- (2) The notice must—
  - (a) state the details of the matter mentioned in subsection (1); and
  - (b) include the other information prescribed by regulation.
- (3) The notice must be given within 10 business days after—

[s 43]

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- (a) for a matter mentioned in subsection (1)(a)—the application for approval to register the prescribed dealing is made; or
  - (b) for a matter mentioned in subsection (1)(b)—the change happens.
- (4) For subsection (1)(a), a resource authority relates to an authority if the resource authority authorises the carrying out of a resource activity for the authority.

#### **43 Holder must give scheme manager notice if cessation in production**

- (1) This section applies to an authority if the resource activity for which the authority is given is authorised under any of the following resource authorities—
- (a) a mining lease or mining development licence under the *Mineral Resources Act 1989*;
  - (b) an authority to prospect or petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004*;
  - (c) a geothermal production lease under the *Geothermal Energy Act 2010*.
- (2) The holder of the authority must give the scheme manager a notice under this section if, after the start of production under the resource authority—
- (a) the holder ceases production under the resource authority and does not expect production to restart within 6 months after the cessation; or
  - (b) production has not been carried out under the resource authority for 6 months.

Maximum penalty—100 penalty units.

- (3) The notice must—
- (a) state the details of the matter mentioned in subsection (2); and
  - (b) include the other information prescribed by regulation.

- 
- (4) The notice must be given within 10 business days after —
- (a) for the matter mentioned in subsection (2)(a)—the holder ceases production; or
  - (b) for the matter mentioned in subsection (2)(b)—the end of the 6 month period mentioned in that subsection.
- (5) In this section—
- production*** means—
- (a) for a resource authority mentioned in subsection (1)(a)—an activity mentioned in the *Mineral Resources Act 1989*, section 6A(1)(a) or (b); or
  - (b) for a resource authority mentioned in subsection (1)(b)—an activity mentioned in the *Petroleum and Gas (Production and Safety) Act 2004*, section 15; or
  - (c) for a resource authority mentioned in subsection (1)(c)—an activity mentioned in the *Geothermal Energy Act 2010*, section 14.

#### **44 Scheme manager may require further information from holder before allocation decision**

- (1) The scheme manager may, before making an allocation decision for an authority, require the holder of the authority to give the scheme manager further information or a document the scheme manager reasonably requires to make the decision.
- (2) For an initial allocation decision, the scheme manager may exercise the power mentioned in subsection (1) at any time after the holder has applied for an ERC decision under the *Environmental Protection Act 1994*, section 298 in relation to the authority.
- (3) The requirement must—
  - (a) be made by notice given to the holder; and
  - (b) state a reasonable period of at least 10 business days within which the holder must comply with the requirement.

[s 45]

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- (4) The scheme manager may extend the period mentioned in subsection (3)(b) by notice given to the holder.
- (5) The holder of the authority must, unless the holder has a reasonable excuse, comply with the requirement.  
Maximum penalty—100 penalty units.
- (6) If the holder of the authority does not comply with the requirement, the scheme manager may make the decision without the further information or document.

**45 Scheme manager may require further information from interested entity before changed holder review decision**

- (1) The scheme manager may, before making a changed holder review decision for an authority, require an interested entity for the authority to give the scheme manager further information or a document the scheme manager reasonably requires to make the decision.
- (2) The requirement must—
  - (a) be made by notice given to the interested entity; and
  - (b) state a reasonable period of at least 10 business days within which the interested entity must comply with the requirement.
- (3) The scheme manager may extend the period mentioned in subsection (2)(b) by notice given to the interested entity.
- (4) The interested entity must, unless the interested entity has a reasonable excuse, comply with the requirement.  
Maximum penalty—100 penalty units.
- (5) If the interested entity does not comply with the requirement, the scheme manager may make the decision without the further information or document.

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## **Division 2            Liability under scheme**

### **Subdivision 1        Contribution to scheme fund**

#### **46        Application of subdivision**

This subdivision applies if—

- (a) both of the following apply—
  - (i) the scheme manager makes an allocation decision for an authority that allocates the authority to 1 of the following risk categories—
    - (A) very low;
    - (B) low;
    - (C) moderate;
  - (ii) the scheme manager does not decide, under section 53(c)(ii), that the holder of the authority must give a surety rather than pay a contribution; or
- (b) all of the following apply—
  - (i) the scheme manager makes an annual review decision for an authority that allocates the authority to the risk category of high;
  - (ii) the scheme manager has made an annual review decision for the authority, for each of the 4 years immediately preceding the decision mentioned in subparagraph (i), that allocates the authority to 1 of the following risk categories—
    - (A) very low;
    - (B) low;
    - (C) moderate;
  - (iii) the scheme manager is satisfied when the scheme manager makes the annual review decision mentioned in subparagraph (i) that the holder is not

[s 47]

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reasonably able to give a surety for the authority within 12 months after the decision is made.

#### **47 Holder must pay contribution to scheme fund**

- (1) The holder of the authority must pay a contribution to the scheme fund within 30 business days after—
- (a) for an initial allocation decision—the initial allocation day for the authority; or
  - (b) for a changed holder review decision—the day the decision takes effect under section 37; or
  - (c) for an annual review decision—the annual review day for the authority.

*Note—*

The holder of the authority must not carry out, or allow the carrying out of, a resource activity under the authority unless the holder has paid the contribution—see the *Environmental Protection Act 1994*, section 297.

- (2) The contribution payable must be worked out using the formula—

$$C = A \times B$$

where—

**A** is the estimated rehabilitation cost for the authority at the beginning of the day that is—

- (a) for an initial allocation decision—the initial allocation day for the authority; or
- (b) for a changed holder review decision—the day the decision takes effect under section 37; or
- (c) for an annual review decision—the annual review day for the authority.

**B** is the prescribed percentage for the authority.

**C** is the amount of the contribution.

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- (3) For the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 20A, the holder mentioned in subsection (1) is the entity mentioned in section 20A(2) of that Act.

**48 Rate of contribution if holder not able to give surety**

An authority mentioned in section 46(b) is taken to be allocated to the risk category of moderate for working out, under section 47, the contribution payable for the authority.

**49 Holder must pay contribution and give surety if estimated rehabilitation cost more than fund threshold**

- (1) This section applies if the estimated rehabilitation cost for the authority is more than the fund threshold.
- (2) Despite section 47(2), the contribution payable must be worked out using the formula—

$$C = A \times B$$

where—

*A* is the fund threshold.

*B* is the prescribed percentage for the authority.

*C* is the amount of the contribution.

- (3) In addition to paying the contribution worked out under subsection (2), the holder of the authority must give a surety for the amount that equals the estimated rehabilitation cost for the authority less the fund threshold.

**50 Refund of contribution to previous holder**

- (1) This section applies if—
- (a) a holder of an authority (a *previous holder*) pays a contribution; and
  - (b) during the 12 months after the contribution is paid, the scheme manager makes a changed holder review decision that has the effect of another holder of the

[s 51]

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authority (the *changed holder*) being liable to pay a contribution, or give a surety, under this part.

(2) The scheme manager must, within 30 business days after the changed holder pays the contribution or gives the surety under this part, refund to the previous holder the pro rata amount of the contribution relating to the remainder of the year after the decision.

(3) In this section—

*pro rata amount*, of a contribution relating to the remainder of a year, means the proportion of the amount of the contribution that is the same proportion that the remainder of the year bears to the whole year.

## **51 Recovery of unpaid contribution**

A contribution payable under this subdivision may be recovered as a debt payable to the State.

## **52 Notification of administering authority**

The scheme manager must, as soon as practicable after the holder of an authority has paid a contribution under this subdivision, give the administering authority for the authority notice of the payment.

## **Subdivision 2 Surety**

### **53 Application of subdivision**

This subdivision applies if—

- (a) both of the following apply—
  - (i) the scheme manager makes an allocation decision for an authority that allocates the authority to the risk category of high;
  - (ii) section 46(b) does not apply; or

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- (b) both of the following apply—
    - (i) the scheme manager makes an allocation decision for an authority that allocates the authority to the risk category of very low, low or moderate;
    - (ii) the holder of the authority is required to give a surety under section 49(3); or
  - (c) both of the following apply—
    - (i) the scheme manager makes an allocation decision for an authority that allocates the authority to the risk category of very low, low or moderate;
    - (ii) the scheme manager decides the holder of the authority must give a surety, rather than pay a contribution, to preserve the financial viability of the scheme fund; or
  - (d) the estimated rehabilitation cost for an authority is less than the prescribed ERC amount; or
  - (e) the holder of a small scale mining tenure is required under the *Environmental Protection Act 1994*, section 21A(2) to give a surety before carrying out an activity, or allowing the carrying out of an activity, under the tenure.

#### **54 Scheme manager's decision about financial viability of scheme fund**

- (1) This section applies for making a decision under section 53(c)(ii).
- (2) The scheme manager may consider whether the sum of the following is likely to be more than the fund threshold—
  - (a) the total estimated rehabilitation cost for the holder of the authority or, if there is more than 1 holder, the relevant holder of the authority;
  - (b) the total estimated rehabilitation cost for any or all of the following—

[s 55]

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- (i) a parent corporation of the holder of the authority or, if there is more than 1 holder, the relevant holder of the authority;
- (ii) a subsidiary corporation, under the Corporations Act, section 46, of a parent corporation mentioned in subparagraph (i);
- (iii) a corporation controlled, under the Corporations Act, section 50AA, by a parent corporation mentioned in subparagraph (i).

## 55 Holder must give surety

- (1) The holder of the authority, or small scale mining tenure, must give a surety for the authority, or tenure, in a form approved by the scheme manager under section 56.

*Notes—*

- 1 The holder of the authority must not carry out, or allow the carrying out of, a resource activity under the authority unless the holder has given the surety—see the *Environmental Protection Act 1994*, sections 297 and 430.
- 2 For small scale mining tenures, see the *Environmental Protection Act 1994*, sections 21A and 435A.

- (2) The amount of the surety is—
- (a) for an authority mentioned in section 53(a) or (c)—the amount of the estimated rehabilitation cost for the authority at the beginning of the day that is—
    - (i) for an initial allocation decision—the initial allocation day for the authority; or
    - (ii) for a changed holder review decision—the day the decision takes effect under section 37; or
    - (iii) for an annual review decision—the annual review day for the authority; or
  - (b) for an authority mentioned in section 53(b)—the amount worked out under section 49(3); or

- (c) for an authority mentioned in section 53(d)—the amount of the estimated rehabilitation cost for the authority; or
  - (d) for a small scale mining tenure mentioned in section 53(e)—the amount under the *Environmental Protection Act 1994*, section 21A(2)(a).
- (3) The surety must be given—
- (a) for an authority mentioned in section 53(a) or (b)—within 30 business days after—
    - (i) for an initial allocation decision—the initial allocation day for the authority; or
    - (ii) for a changed holder review decision—the day the decision takes effect under section 37; or
    - (iii) for an annual review decision—the annual review day for the authority; or
  - (b) for an authority mentioned in section 53(c)—within 30 business days after the day the scheme manager decides the holder must give a surety, rather than pay a contribution, to preserve the financial viability of the scheme fund; or
  - (c) for an authority mentioned in section 53(d)—within 30 business days after—
    - (i) if a contribution to the scheme fund has been paid for the authority within the 12 month period immediately preceding the day the administering authority decided the estimated rehabilitation cost for the authority—the day that is 12 months after the day the contribution was paid; or
    - (ii) otherwise—the day the administering authority decides the estimated rehabilitation cost for the authority; or
  - (d) for a small scale mining tenure mentioned in section 53(e)—before carrying out an activity, or allowing the carrying out of an activity, under the tenure.

[s 56]

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- (4) The scheme manager may extend a period mentioned in subsection (3)(a), (b) or (c) if the scheme manager is satisfied it is not reasonably practicable for the holder to obtain the surety within the period.
- (5) For the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 20A, the holder mentioned in subsection (1) is the entity mentioned in section 20A(2) of that Act.

## 56 Form of surety

- (1) The scheme manager may only approve a surety in 1 or more of the following forms—
  - (a) a bank guarantee—
    - (i) in the approved form; or
    - (ii) on terms and conditions approved by the scheme manager;
  - (b) an insurance bond issued by a prescribed insurer—
    - (i) in the approved form; or
    - (ii) on terms and conditions approved by the scheme manager;
  - (c) a payment of a cash amount—
    - (i) on the condition that the giver of the surety is not entitled to interest on the amount of the surety; and
    - (ii) subject to subparagraph (i), on the terms and conditions approved by the scheme manager.
- (2) The *Acts Interpretation Act 1954*, section 48A(1) does not apply to a form mentioned in subsection (1).
- (3) In this section—

**prescribed insurer** means an insurer prescribed by regulation for this section.

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**57 When holder must give increased surety**

- (1) This section applies if—
  - (a) a surety is given for an authority mentioned in section 53(a), (b) or (c); and
  - (b) within 12 months after the allocation decision for the authority mentioned in section 53(a), (b) or (c), the estimated rehabilitation cost for the authority increases.
- (2) In addition to giving the surety under section 55, the holder of the authority must give a surety in the amount—
  - (a) for an authority mentioned in section 53(a) or (c)—that equals the amount of the increased estimated rehabilitation cost for the authority less the amount of the surety for the authority already given; or
  - (b) for an authority mentioned in section 53(b)—that equals the amount of the increased estimated rehabilitation cost for the authority less both the fund threshold and the amount of the surety for the authority already given.
- (3) The surety must be in the form approved by the scheme manager under section 56.
- (4) The surety must be given within 30 business days after the estimated rehabilitation cost for the authority increases.
- (5) The scheme manager may extend the period mentioned in subsection (4) if the scheme manager is satisfied it is not reasonably practicable for the holder to obtain the surety within the period.

**58 Release of surety**

- (1) The scheme manager must release a surety given under this subdivision for an authority if—
  - (a) the surety is replaced with another surety for the authority in a form approved by the scheme manager under section 56; or

[s 59]

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- (b) the surety is no longer required to be given because a contribution to the scheme fund is required to be paid under subdivision 1 for the authority.
- (2) The surety must be released to the giver of the surety as soon as practicable after—
  - (a) for subsection (1)(a)—the replacement surety is given; or
  - (b) for subsection (1)(b)—the contribution to the scheme fund is paid.
- (3) The scheme manager may release a surety given under this subdivision for an authority, or small scale mining tenure, to the giver of the surety if the scheme manager is satisfied the scheme manager will not be asked under division 3, subdivision 2 to make a claim on or realise the surety or part of it.
- (4) Without limiting subsection (3), the scheme manager may be satisfied under that subsection if the administering authority for the authority gives the scheme manager a notice stating the administering authority will not ask the scheme manager, under division 3, subdivision 2, for the payment of costs and expenses by the scheme manager making a claim on or realising the surety or part of it.

## **59 Notification of administering authority**

The scheme manager must, as soon as practicable after the holder of an authority or small scale mining tenure gives a surety under this subdivision, give the administering authority for the authority notice of the giving of the surety.

## **Subdivision 3 Fees**

### **60 Assessment fee**

- (1) If the scheme manager makes an allocation decision for an authority, the holder of the authority must pay the scheme

manager the assessment fee prescribed by regulation for the decision.

- (2) The assessment fee must be paid within 30 business days after the decision is made.

## **61 Administration fee for particular sureties**

- (1) This section applies if—
  - (a) the holder of an authority is required to give a surety under section 53(d); or
  - (b) the holder of a small scale mining tenure is required to give a surety under section 53(e); or
  - (c) the holder of an authority or small scale mining tenure replaces a surety.
- (2) The holder must pay the scheme manager the administration fee prescribed by regulation for the surety.
- (3) The administration fee must be paid—
  - (a) for subsection (1)(a) or (b)—within the period mentioned in section 55(3) for giving the surety; or
  - (b) for subsection (1)(c)—within 30 business days after the replacement surety is given.

## **62 Recovery of unpaid fee**

A fee payable under this subdivision may be recovered as a debt payable to the State.

[s 63]

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## **Division 3                    Claiming financial provision**

### **Subdivision 1            Payments from scheme fund**

#### **63            Application of subdivision**

This subdivision applies if—

- (a) the administering authority (the *requesting entity*) decides, under the *Environmental Protection Act 1994*, section 316G, to ask the scheme manager for the payment of costs and expenses from the scheme fund; or
- (b) the chief executive (mineral resources) (also the *requesting entity*) incurs, or might reasonably incur, costs and expenses in authorising a person, under the *Mineral Resources Act 1989*, section 344A, to carry out rehabilitation activities at land on which an abandoned mine exists; or
- (c) the chief executive (petroleum) (also the *requesting entity*) incurs, or might reasonably incur, costs and expenses in authorising a person, under the *Petroleum and Gas (Production and Safety) Act 2004*, section 799D, to carry out remediation activities in relation to an abandoned operating plant; or
- (d) the chief executive (resources) or the chief executive (environment) (also the *requesting entity*) incurs, or might reasonably incur, costs and expenses relating to particular research that may contribute to the rehabilitation of land on which resource activities have been carried out.

#### **64            Requesting entity may ask for payment from scheme fund**

- (1) The requesting entity may ask the scheme manager for payment of the costs and expenses from the scheme fund.
- (2) The request must—

- (a) be in writing; and
  - (b) state the details of the costs and expenses; and
  - (c) for costs and expenses mentioned in section 63(a)—state the details of the authority to which the costs and expenses relate; and
  - (d) include the other information prescribed by regulation.
- (3) If a request under section 63(b) relates to a pre-commencement abandoned mine, the requesting entity must consult with the advisory committee before making the request.
- (4) Before making a request under section 63(d), the requesting entity must consult with the advisory committee about the proposed request.
- (5) In this section—

*pre-commencement abandoned mine* means an abandoned mine in existence before the commencement.

## **65 Decision of scheme manager**

- (1) The scheme manager must decide to authorise or not to authorise payment of the costs and expenses from the scheme fund.
- (2) The scheme manager must decide to authorise payment of the costs and expenses unless the payment would adversely affect the financial viability of the scheme fund.
- (3) If the scheme manager decides to authorise payment of the costs and expenses, the scheme manager must give the amount of the costs and expenses to the requesting entity.

[s 66]

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## **Subdivision 2      Realising surety**

### **66      Application of subdivision**

This subdivision applies if the administering authority (the *requesting entity*) decides, under the *Environmental Protection Act 1994*, section 316G, to ask the scheme manager for the payment of costs and expenses by the scheme manager making a claim on or realising a surety or part of it.

### **67      Requesting entity may ask for realisation of surety**

- (1) The requesting entity may ask the scheme manager for payment of the costs and expenses by making a claim on or realising the surety or part of it.
- (2) The request must—
  - (a) be in writing; and
  - (b) state the details of the costs and expenses; and
  - (c) state the details of the authority or small scale mining tenure to which the request relates; and
  - (d) include the other information prescribed by regulation.

### **68      Realisation of surety**

The scheme manager must, as soon as practicable after receiving the request—

- (a) make a claim on, or realise, the surety to the extent of the lesser of the following—
  - (i) the amount of the costs and expenses;
  - (ii) the amount of the surety; and
- (b) give the amount claimed or realised under paragraph (a) to the requesting entity.

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## **69 Replenishment of surety**

- (1) This section applies if—
  - (a) under section 68, all or part of the surety is claimed or realised; and
  - (b) a surety for the authority or small scale mining tenure is still required under this part.
- (2) The scheme manager must give the holder of the authority or small scale mining tenure a notice—
  - (a) stating how much of the surety has been claimed or realised; and
  - (b) directing the holder to, within 30 business days after the giving of the notice, replenish the surety to the amount that was held by the scheme manager before the surety started to be claimed or realised.
- (3) It is a condition of the authority or small scale mining tenure that the holder must comply with the direction.
- (4) The scheme manager must give a notice to the administering authority to inform the administering authority whether or not the holder has complied with the direction.
- (5) The scheme manager may extend the period mentioned in subsection (2)(b) by notice given to the holder.

## **Division 4 Accountability**

### **70 Guidelines**

- (1) The scheme manager may make guidelines about the operation of the scheme, including, for example, about—
  - (a) the making of allocation decisions for authorities; and
  - (b) the assigning of authorities to a relevant holder; and
  - (c) the making of decisions under section 53(c)(ii); and
  - (d) the forms of surety under section 56.

[s 71]

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- (2) The guidelines may be amended or replaced by later guidelines made under this section.
- (3) The guidelines are a statutory instrument under the *Statutory Instruments Act 1992*.

## **71 Scheme manager to keep Minister informed**

- (1) The scheme manager must—
  - (a) keep the Minister reasonably informed of the operations, financial performance and financial position of the scheme; and
  - (b) give the Minister reports and information the Minister requires to help the Minister make informed assessments of the matters mentioned in paragraph (a); and
  - (c) if matters arise that in the scheme manager's opinion may significantly affect the financial viability of the scheme fund—immediately inform the Minister of the matters and the scheme manager's opinion in relation to them.
- (2) Subsection (1) does not limit the matters of which the scheme manager is required to keep the Minister informed, or limit the reports or information the scheme manager is required, or may be required, to give to the Minister under another Act.

## **72 Scheme annual report**

- (1) For each financial year, the scheme manager must give the Minister a report on the administration of this Act and the scheme during the financial year.
- (2) The report must include—
  - (a) information relating to an investigation under section 73 by the scheme manager, including, for example—
    - (i) the actuary's opinions; and
    - (ii) the scheme manager's recommendations; and

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- (iii) any action taken in response to the scheme manager's recommendations; and
  - (b) a summary of information received from the public during the financial year of the report about the effectiveness of the scheme; and
  - (c) the other information prescribed by regulation.
- (3) The report must be given to the Minister within 3 months after the end of the financial year.
- (4) The report must be published on the department's website as soon as practicable after it is given to the Minister.

### **73 Investigation of actuarial sustainability of scheme**

- (1) The scheme manager must, within the prescribed period, investigate the actuarial sustainability of the scheme.
- (2) For subsection (1), the scheme manager may ask an appropriately qualified actuary to give the scheme manager a report about the actuarial sustainability of the scheme.
- (3) The actuary's report must include the actuary's opinion about whether—
- (a) the amount of the scheme fund is adequate to achieve the main purposes of this Act; and
  - (b) any of the following characteristics of the scheme fund should be changed—
    - (i) the fund threshold;
    - (ii) the number of risk categories;
    - (iii) the rate of contribution to the scheme fund; and
  - (c) the amounts of the assessment fee and administration fee are adequate to meet the cost of operating the scheme.
- (4) After the scheme manager completes the investigation, the scheme manager must give the Minister—
- (a) the actuary's report; and

[s 74]

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- (b) the scheme manager's recommendations about—
  - (i) the actuary's opinion under subsection (3)(b); and
  - (ii) any other matter relating to the operation of the scheme.
- (5) This section does not limit the scheme manager's ability to make other inquiries about the operation of the scheme.
- (6) In this section—

*prescribed period* means—

  - (a) for the first investigation—5 years after the commencement; or
  - (b) for each investigation after the first investigation—3 years after the date of the immediately preceding report.

## Division 5                      Effect of decisions

### 74            Application for judicial review of particular decisions

- (1) A dissatisfied person may apply for review under the *Judicial Review Act 1991* of the following decisions of the scheme manager—
  - (a) an initial risk category allocation;
  - (b) a changed holder review allocation;
  - (c) an annual review allocation.
- (2) In this section—

*dissatisfied person* means—

  - (a) for an initial risk category allocation—the holder of the authority for which the allocation is made; or
  - (b) for a changed holder review allocation—the interested entity for which the allocation is made; or
  - (c) for an annual review allocation—the holder of the authority for which the allocation is made.

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**75 Decisions of scheme manager otherwise final**

- (1) This section is subject to section 74.
- (2) Unless the Supreme Court decides a decision of the scheme manager under this Act is affected by jurisdictional error, the decision—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to a decision of the scheme manager under this part to the extent it is affected by jurisdictional error.

**76 No stay of decisions**

A decision mentioned in section 74 must not be stayed.

## **Part 4 Offences and proceedings**

**77 False or misleading statements**

A person must not, in relation to the administration of this Act—

- (a) state anything to the scheme manager the person knows, or should reasonably know, is false or misleading in a material particular; or
- (b) omit from a statement made to the scheme manager anything without which the statement is, to the person's knowledge, misleading in a material particular.

[s 78]

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Maximum penalty—100 penalty units.

## 78 False or misleading documents

- (1) A person must not, in relation to the administration of this Act, give to the scheme manager a document containing information the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) informs the scheme manager, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

# Part 5 Confidentiality

## 79 Definitions for part

In this part—

*confidential information*—

- (a) means information—
- (i) about a person's commercial, business or financial affairs; or
  - (ii) disclosed to, or in the possession or under the control of, the scheme manager under part 3; or
  - (iia) about an allocation decision for an authority; or
  - (iii) about a contribution paid, or a surety given, under part 3; or
  - (iv) about an investigation, or report, under section 73; or

- 
- (v) about a function of the scheme manager under section 21(1)(d); and
  - (b) does not include—
    - (i) statistical or other information that could not reasonably be expected to result in the identification of the person to whom it relates; or
    - (ii) information that is publicly available.

*disclose* includes give access to.

*information* includes a document.

## 80 Duty of confidentiality

- (1) This section applies to a person who—
  - (a) is, or has been, any of the following persons performing functions under or relating to the administration of this Act—
    - (i) the scheme manager;
    - (ii) an acting scheme manager;
    - (iii) the chief executive;
    - (iv) a public service employee of the department;
    - (v) an actuary asked to give the scheme manager a report under section 73;
    - (vi) a person engaged under a contract of service to perform work for the scheme manager;
    - (vii) a person to whom the scheme manager delegates a function;
    - (viii) a member of the advisory committee; and
  - (b) in that capacity, acquires confidential information or has access to, or custody of, confidential information.
- (2) The person must not use or disclose the confidential information, other than under this part.

Maximum penalty—100 penalty units.

[s 81]

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## **81 Use or disclosure for authorised purpose**

The person may use or disclose the confidential information as follows—

- (a) to the extent the use or disclosure is required or permitted under this Act or necessary to perform the person's functions under this Act;
- (b) if the information relates to an adult—with the adult's consent;
- (c) if the information relates to an entity other than an individual—with the entity's consent;
- (d) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal;
- (e) if otherwise required or permitted under another law.

## **82 Disclosure to particular chief executives of departments to assist in performance of functions**

- (1) The scheme manager may disclose the confidential information to—
  - (a) the chief executive (environment) if the scheme manager is satisfied the disclosure would assist in the performance of the chief executive's functions under the *Environmental Protection Act 1994*; or
  - (b) the chief executive (mineral resources), the chief executive (petroleum) or the chief executive (resources) if the scheme manager is satisfied the disclosure would assist in the performance of the chief executive's functions under the *Mineral and Energy Resources (Common Provisions) Act 2014* or a Resource Act.
- (2) A person who acquires the confidential information mentioned in subsection (1), or has access to, or custody of, the confidential information, must not use or disclose the confidential information, other than under subsection (1).

Maximum penalty—100 penalty units.

(3) In this section—

*Resource Act* see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 9.

## Part 6                      Miscellaneous

### 83      **Advisory committee**

- (1) The chief executive must establish an advisory committee to give advice—
  - (a) under section 64 to a requesting entity; or
  - (b) to the scheme manager about the operation of the scheme.
- (2) The advisory committee is to consist of at least 5 appropriately qualified persons appointed by the Minister.
- (3) The persons appointed under subsection (2) must include at least—
  - (a) 1 person nominated by an organisation representing environmental interests in Queensland; and
  - (b) 1 person nominated by an organisation representing the interests of the mineral and energy resources sector in Queensland.
- (4) The Minister must appoint 1 of the members of the advisory committee as chairperson.
- (5) The terms on which the members of the advisory committee hold office are to be decided by the Minister.
- (6) However, a member of the advisory committee is—
  - (a) not entitled to be paid remuneration; and
  - (b) entitled to be paid expenses.

[s 84]

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## **84 Delegation**

- (1) The scheme manager may delegate the scheme manager's functions under this Act to an appropriately qualified person.
- (2) In this section—  
*function* includes power.

## **85 Protection from liability**

- (1) A protected person does not incur civil liability for an act done, or omission made, in good faith under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a protected person, the liability attaches instead to the State.
- (3) The *Public Service Act 2008*, section 26C does not apply to a protected person who is a State employee for chapter 1, part 3, division 3 of that Act.
- (4) In this section—  
*protected person* means—
  - (a) the scheme manager; or
  - (b) an acting scheme manager; or
  - (c) a person to whom the scheme manager delegates a function under section 84; or
  - (d) a member of the advisory committee.

## **86 Approved forms**

The scheme manager may approve forms for use under this Act.

## **87 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—

- (a) prescribe fees payable under the Act; and
- (b) provide for a maximum penalty of 20 penalty units for a contravention of a regulation.

## **88 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the old scheme to the operation of the new scheme; and
  - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 2 years after the commencement.
- (5) In this section—

*new scheme* means the scheme established under this Act.

*old scheme* means the scheme of financial assurance provided for by the *Environmental Protection Act 1994*, chapter 5, part 12 immediately before the commencement.

## **Part 7 Transitional provisions**

### **89 Application of part**

- (1) This part applies to—
  - (a) a financial assurance given under the pre-amended Act, chapter 5, part 12 by the holder of an environmental authority for a resource activity if, immediately before

[s 90]

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the commencement, the financial assurance was in effect; and

- (b) a financial assurance given under the pre-amended Act, section 21A(2) by the holder of a small scale mining tenure if, immediately before the commencement, the financial assurance was in effect; and
- (c) a financial assurance given by the holder of an environmental authority after the commencement if the administering authority decided, whether before or after the commencement, the amount and form of the financial assurance under the pre-amended Act, chapter 5, part 12, division 2, subdivision 2.

*Note—*

See the *Environmental Protection Act 1994*, sections 757 and 758.

- (2) In this section—

*pre-amended Act* means the *Environmental Protection Act 1994* as in force before the commencement.

## **90 Financial assurance taken to be surety given under this Act**

- (1) The financial assurance is taken to be a surety given under part 3 for the authority or small scale mining tenure.
- (2) This Act applies in relation to the surety.
- (3) However, it does not matter if the surety is not in a form approved by the scheme manager under section 56.
- (4) Also, an administration fee is not payable for the surety.
- (5) Without limiting subsection (2), the scheme manager may make a claim on or realise the surety or part of it under part 3, division 3, subdivision 2.
- (6) An instrument comprising or relating to the surety must be interpreted, and takes effect, as if it were amended to the extent necessary for this section.
- (7) Without limiting subsection (6)—

- 
- (a) subsection (2) applies despite the terms of an instrument comprising or relating to the surety, including, for example, a term that the surety or its benefit is not transferable; and
  - (b) the surety is taken to have been given for valuable consideration and any instrument granting it is taken to have been executed as a deed under seal by each party to the instrument; and
  - (c) this section, or anything done under it, does not—
    - (i) discharge the surety; or
    - (ii) discharge or release the surety or other obligee, wholly or partly, from an obligation; or
    - (iii) fulfil a condition allowing a person to—
      - (A) terminate an instrument comprising or relating to the surety; or
      - (B) be released, wholly or partly, from an obligation; or
      - (C) modify the operation or effect of an instrument comprising or relating to the surety, or an obligation; and
  - (d) if the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the surety—
    - (i) the advice is taken to have been obtained; and
    - (ii) the consent or notice is taken to have been given.
- (8) If the surety is in the form of a cash payment, the giver of the surety is not entitled to interest on the amount of the surety accrued after the commencement.

## **91 Initial allocation decision not required until scheme manager gives transition notice**

- (1) This section applies to an environmental authority mentioned in section 89(1)(a) or (c) if the estimated rehabilitation cost

[s 92]

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for the authority, as mentioned in the *Environmental Protection Act 1994*, section 761(3)(a) or 762(3)(a)(i), is equal to or more than the prescribed ERC amount.

- (2) Despite sections 26 and 27, the scheme manager is not required to make an initial allocation decision for the authority unless the scheme manager gives the holder of the authority a notice (a *transition notice*) for the authority.
- (3) The transition notice must state—
  - (a) that the scheme manager intends to start making an initial allocation decision for the authority; and
  - (b) the day on which the scheme manager intends to start making the initial allocation decision.
- (4) The transition notice for the authority must be given within 3 years after the commencement.
- (5) Until the scheme manager makes an initial allocation decision for the authority, the holder of the authority must give a surety for the authority in the amount of the estimated rehabilitation cost for the authority.
- (6) If a surety is given under subsection (5) after the day this section commences, the surety must be in a form approved by the scheme manager under section 56.
- (7) The surety must be given within 30 business days after the day the administering authority decides the estimated rehabilitation cost for the authority.
- (8) The scheme manager may extend the period mentioned in subsection (7) if the scheme manager is satisfied it is not reasonably practicable for the holder to obtain a surety within the period.

## **92 Scheme manager may require further information from holder before allocation decision**

Section 44 applies to—

- (a) the holder of an environmental authority mentioned in section 89(1)(a) from the commencement; and

- (b) the holder of an environmental authority mentioned in section 89(1)(c) from the later of the following—
  - (i) the commencement;
  - (ii) the day the administering authority gives a notice of a decision about the amount and form of the financial assurance to the holder of the authority.

## **Part 8                      Amendment of Acts**

### **Division 1                      Amendment of this Act**

#### **93      Act amended**

This division amends this Act.

#### **94      Amendment of long title**

Long title, from ‘, and to amend’—  
*omit.*

### **Division 2                      Amendment of Environmental Protection Act 1994**

#### **95      Act amended**

This division amends the *Environmental Protection Act 1994*.

#### **96      Amendment of s 21A (Meaning of *prescribed condition*)**

Section 21A(2) and (3)—  
*omit, insert—*

- (2) It is also a *prescribed condition* for carrying out a small scale mining activity that the holder of the

[s 96A]

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mining tenure (a *small scale mining tenure*) for the activity must not carry out, or allow the carrying out of, the activity unless the holder has given a surety—

- (a) of the amount prescribed by regulation; and
  - (b) in the form approved by the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 56.
- (3) However, subsection (2) does not apply if the holder's small scale mining tenure is a prospecting permit.

**96A Amendment of s 49 (Decision on whether EIS may proceed)**

(1) Section 49—

*insert—*

(5A) Subsection (5B) applies if—

- (a) under the final terms of reference for the EIS, the EIS submitted by the proponent includes a proposed PRC plan; and
- (b) the proposed PRCP schedule for the plan identifies an area of land as a non-use management area under section 126D(2)(b); and
- (c) the chief executive decides to allow the EIS to proceed.

(5B) The chief executive must, as soon as practicable after making the decision, ask a qualified entity to—

- (a) carry out a public interest evaluation for each area of land mentioned in subsection (5A)(b); and

- 
- (b) before the end of the submission period for the EIS, give the chief executive a report about the evaluation that complies with section 316PB.

(2) Section 49—

*insert—*

- (8) In this section—

*qualified entity* means an entity, other than the proponent, that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation.

**96B Replacement of ch 3, pt 1, div 4, sdiv 2, hdg (Submissions)**

Chapter 3, part 1, division 4, subdivision 2, heading—

*omit, insert—*

**Subdivision 2 Submissions and response to report about public interest evaluation**

**96C Amendment of s 56 (Response to submissions)**

- (1) Section 56(1)—

*omit, insert—*

- (1) The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of the following documents—
- (a) each submission accepted by the chief executive;
  - (b) if a public interest evaluation has been carried out for a proposed non-use management area for the project—the report about the public interest evaluation.

[s 96C]

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- (1A) However, if the report mentioned in subsection (1)(b) is received by the chief executive after the submission period ends, the chief executive must give the proponent copies of the documents mentioned in subsection (1) within 10 business days after the report is received by the chief executive.
- (1B) If subsection (1)(b) applies, the chief executive must also, subject to section 316PE, give a copy of the report to each person who made a submission under section 54 about the EIS at the same time as the chief executive gives the proponent a copy of the report.
- (2) Section 56(2)(c)—  
*omit, insert—*
- (c) if subsection (1)(b) applies—a statement of the proponent’s response to the report; and
  - (d) any amendments of the submitted EIS because of the submissions or report, together with an EIS amendment notice under section 66 for the amendments.
- (3) Section 56(3), definition *relevant period*, paragraph (a)—  
*omit, insert—*
- (a) generally—
    - (i) if section (1)(b) applies and an entity asks for a review of the report under section 316PC—20 business days after notice of the reviewing entity’s decision is given to the proponent under section 316PC(7); or
    - (ii) otherwise—20 business days after the proponent is given a copy of all submissions accepted by the chief executive; or

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**96D Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS)**

(1) Section 56A(1)—

*omit, insert—*

(1) This section applies if—

- (a) a submission is accepted by the chief executive under section 55; or
- (b) a public interest evaluation is carried out for a proposed non-use management area for the project.

(2) Section 56A(4)(a) and (b)—

*omit, insert—*

- (a) the proponent's response to the submission, and any report about a public interest evaluation, is adequate; and
- (b) the submitted EIS is consistent with the recommendations made in any report about a public interest evaluation; and
- (c) the proponent has made all appropriate amendments to the submitted EIS because of the submission and any report about a public interest evaluation.

(3) Section 56A(6)(d), 'submissions'—

*omit, insert—*

submission or report

**96E Amendment of s 56AA (Proponent may resubmit EIS)**

(1) Section 56AA(2), 'submissions'—

*omit, insert—*

submission or report mentioned in section 56A(1)

(2) Section 56AA(5), 'submissions'—

[s 97]

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*omit, insert—*

submission or report

**97 Amendment of ch 5, hdg (Environmental authorities and environmentally relevant activities)**

Chapter 5, heading, ‘and’—

*omit, insert—*

**, PRC plans and**

**98 Insertion of new s 111A**

After section 111—

*insert—*

**111A Meaning of *stable condition***

Land is in a *stable condition* if—

- (a) the land is safe and structurally stable; and
- (b) there is no environmental harm being caused by anything on or in the land; and
- (c) the land can sustain a post-mining land use.

**99 Amendment of s 112 (Other key definitions for ch 5)**

Section 112—

*insert—*

***management milestone***, for a non-use management area, means each significant event or step necessary to—

- (a) achieve best practice management of the area; and
- (b) minimise risks to the environment.

***non-use management area*** means an area of land the subject of a PRC plan that can not be

rehabilitated to a stable condition after all relevant activities for the PRC plan carried out on the land have ended.

***post-mining land use***, for land the subject of a PRC plan, means the purpose for which the land will be used after all relevant activities for the PRC plan carried out on the land have ended.

***PRC plan***, for land the subject of a mining lease, means a progressive rehabilitation and closure plan for the land that consists of—

- (a) the rehabilitation planning part of the plan; and
- (b) the PRCP schedule for the plan, including any conditions imposed on the schedule.

***PRCP schedule***, for a PRC plan, means a schedule of the plan that—

- (a) complies with section 126D; and
- (b) is approved under chapter 5, part 5, division 2, with or without conditions.

***public interest consideration*** see section 316PA(3).

***public interest evaluation*** means an evaluation of a proposed non-use management area conducted under section 316PA.

***rehabilitation milestone***, for the rehabilitation of land, means each significant event or step necessary to rehabilitate the land to a stable condition.

***rehabilitation planning part***, of a PRC plan, see section 126C(2).

***stable condition***, for land, see section 111A.

[s 100]

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**100 Amendment of ch 5, pt 1, div 3, hdg (Stages of assessment process)**

Chapter 5, part 1, division 3, heading, after ‘Stages’—

*insert—*

**and application**

**101 Insertion of new s 114A**

Chapter 5, part 1, division 3—

*insert—*

**114A Application of assessment process for proposed PRC plans**

- (1) This section applies if, under section 125(1)(n), a site-specific application is required to be accompanied by a proposed PRC plan.
- (2) Parts 3 to 5 apply to the proposed PRC plan, as if the plan were a part of the application.
- (3) Unless otherwise provided, a reference in parts 3 to 5 to an application includes a reference to the proposed PRC plan.

**102 Amendment of ch 5, pt 2, div 3, hdg (Applying for environmental authorities)**

Chapter 5, part 2, division 3, heading, after ‘authorities’—

*insert—*

**and requirements for PRC plans**

**103 Amendment of s 125 (Requirements for applications generally)**

- (1) Section 125(1)(l)(i)(E), ‘details’—

*omit, insert—*

if paragraph (n) does not apply—details

(2) Section 125(1)—

*insert—*

(ma) if the application is a site-specific application for a mining activity relating to a mining lease—be accompanied by a proposed PRC plan that complies with this division; and

(3) Section 125(1)(ma) and (n)—

*renumber* as section 125(1)(n) and (o).

#### **104 Insertion of new ss 126B–126D**

After section 126A—

*insert—*

##### **126B Main purpose of PRC plan**

The main purposes of a PRC plan are to—

- (a) require the holder of an environmental authority issued for an application mentioned in section 125(1)(n) to plan for how and where environmentally relevant activities will be carried out on land in a way that maximises the progressive rehabilitation of the land to a stable condition; and
- (b) provide for the condition to which the holder must rehabilitate the land before the authority may be surrendered.

##### **126C Requirements for PRC plan**

- (1) A proposed PRC plan must—
  - (a) be in the approved form; and
  - (b) describe the following—

[s 104]

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- (i) each resource tenure, including the area of each tenure, to which the application relates;
  - (ii) the relevant activities to which the application relates;
  - (iii) the likely duration of the relevant activities; and
- (c) include—
- (i) a proposed PRCP schedule that complies with section 126D; and
  - (ii) a detailed description, including maps, of how and where the relevant activities are to be carried out; and
  - (iii) details of the consultation undertaken by the applicant in developing the proposed PRC plan; and
  - (iv) details of how the applicant will undertake ongoing consultation in relation to the rehabilitation to be carried out under the plan; and
- (d) state the extent to which each proposed post-mining land use for land, or non-use management area, identified in the proposed PRCP schedule for the plan is consistent with—
- (i) the outcome of consultation with the community in developing the plan; and
  - (ii) any strategies or plans for the land of a local government, the State or the Commonwealth; and
- (e) for each proposed post-mining land use for land, state the applicant's proposed methods or techniques for rehabilitating the land to a stable condition in a way that supports the

- rehabilitation milestones under the proposed PRCP schedule; and
- (f) identify the risks of a stable condition for land mentioned in paragraph (e) not being achieved, and how the applicant intends to manage or minimise the risks; and
  - (g) for each proposed non-use management area, state the reasons the applicant considers the area can not be rehabilitated to a stable condition because of a matter mentioned in section 126D(2); and
  - (h) for each matter mentioned in paragraph (g), include copies of reports or other evidence relied on by the applicant for each proposed non-use management area; and
  - (i) for each proposed non-use management area, state the applicant's proposed methodology for achieving best practice management of the area to support the management milestones under the proposed PRCP schedule for the area; and
  - (j) include the other information the administering authority reasonably considers necessary to decide whether to approve the PRCP schedule for the plan.
- (2) The matters mentioned in subsection (1), other than the matter mentioned in subsection (1)(c)(i), are the *rehabilitation planning part* of the proposed PRC plan.

### **126D Requirements for proposed PRCP schedule**

- (1) A proposed PRCP schedule must—
  - (a) for the area of each resource tenure described in the PRC plan, state—

[s 104]

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- (i) the proposed post-mining land use for the land; or
    - (ii) that the applicant considers the land to be a non-use management area; and
  - (b) for each proposed post-mining land use mentioned in paragraph (a)(i), state—
    - (i) each rehabilitation milestone required to achieve a stable condition for the land; and
    - (ii) when each rehabilitation milestone is to be achieved; and
  - (c) for each non-use management area mentioned in paragraph (a)(ii), state—
    - (i) each management milestone for the area; and
    - (ii) when each management milestone is to be achieved; and
  - (d) include maps showing the land mentioned in paragraphs (a), (b) and (c).
- (2) The PRCP schedule may state that land is a non-use management area only if—
  - (a) carrying out rehabilitation of the land would cause a greater risk of environmental harm than not carrying out the rehabilitation; or
  - (b) both of the following apply—
    - (i) the risk of environmental harm as a result of not carrying out rehabilitation of the land is confined to the area of the relevant resource tenure;
    - (ii) the applicant considers, having regard to each public interest consideration, that it is in the public interest for the land not to be rehabilitated to a stable condition.

- (3) Despite subsection (2), if land the subject of the proposed PRCP schedule will contain a void situated wholly or partly in a flood plain, the schedule must provide for rehabilitation of the land to a stable condition.
- (4) For subsection (1)(b)(ii), the PRCP schedule must provide for each rehabilitation milestone to be achieved as soon as practicable after the land to which it relates becomes available for rehabilitation.
- (5) For subsection (4), land is ***available for rehabilitation*** if the land is not being mined, unless—
  - (a) the land is being used for operating infrastructure or machinery for mining, including, for example, a dam or water storage facility; or
  - (b) the land is identified in the proposed PRCP schedule or the application for an environmental authority for relevant activities to which the schedule relates as containing a probable or proved ore reserve that is to be mined within 10 years after the land would otherwise have become available for rehabilitation; or
  - (ba) the land is required for the mining of a probable or proved ore reserve mentioned in paragraph (b); or
  - (c) the land contains permanent infrastructure identified in the proposed PRCP schedule as remaining on the land for a post-mining land use.

- (6) In this section—

***mined*** means mined within the meaning of the Mineral Resources Act, section 6A.

***probable or proved ore reserve*** means a probable

[s 105]

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ore reserve or proved ore reserve mentioned in the listing rules made by ASX Limited (ACN 008 624 691) for the listing of corporations on the Australian stock exchange.

**void** means an area of land to be excavated in the carrying out of a mining activity.

**105 Amendment of s 130 (Nomination of principal applicant)**

Section 130(2) and (3), after ‘relating to the application’—

*insert—*

or a proposed PRC plan accompanying the application

**106 Amendment of s 131 (Meaning of *minor change*)**

(1) Section 131, ‘for an application, is any of the following changes to the application’—

*omit, insert—*

for an application or proposed PRC plan, is any of the following changes to the application or plan

(2) Section 131(d), from ‘changed application’—

*omit, insert—*

changed application.

(3) Section 131—

*insert—*

(2) For subsection (1)(d), a **minor change** does not include a change that would have the effect that the type of application is changed.

**107 Amendment of s 132 (Changing application)**

(1) Section 132, heading, after ‘application’—

*insert—*

**or proposed PRC plan**

- (2) Section 132(1), from ‘decided’ to ‘application’—  
*omit, insert—*

decided or a proposed PRCP schedule is approved, the applicant may change the application or proposed PRC plan for the schedule

- (3) Section 132(2), after ‘an application’—  
*insert—*

or proposed PRC plan

**108 Amendment of s 133 (Effect on assessment process—minor changes and agreed changes)**

- (1) Section 133(1) and (2), after ‘changed application’—  
*insert—*

or proposed PRC plan

- (2) Section 133(1)(a) and (2)(a), after ‘application’—  
*insert—*

or plan

**109 Amendment of s 134 (Effect on assessment process—other changes)**

- (1) Section 134(1) and (3), after ‘changed application’—  
*insert—*

or proposed PRC plan

- (2) Section 134(3)(a), after ‘application’—  
*insert—*

or proposed PRC plan

[s 109A]

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## **109A Insertion of new s 136A**

After section 136—

*insert—*

### **136A Administering authority must obtain report about public interest evaluation for particular applications**

- (1) This section applies if—
  - (a) the application stage for a site-specific application for a mining activity relating to a mining lease ends; and
  - (b) the application is accompanied by a proposed PRC plan that includes a proposed PRCP schedule identifying an area of land as a non-use management area under section 126D(2)(b); and
  - (c) either—
    - (i) a public interest evaluation by a qualified entity for the area of land mentioned in paragraph (b) has not been carried out for an EIS; or
    - (ii) a public interest evaluation by a qualified entity for the area of land mentioned in paragraph (b) has been carried out for an EIS and, since the evaluation was carried out, the proposed non-use management area has changed.
- (2) The administering authority must, as soon as practicable after the application stage ends, ask a qualified entity to—
  - (a) carry out a public interest evaluation for each area of land mentioned in subsection (1)(b); and

- 
- (b) give the administering authority a report about the evaluation that complies with section 316PB.

*Note—*

See section 167A(4) for when particular reports must be given to the administering authority under paragraph (b).

- (3) In this section—

***EIS*** includes an EIS under the State Development Act.

***qualified entity*** means an entity, other than the applicant, that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation.

**110 Amendment of s 139 (Information stage does not apply if EIS process complete)**

Section 139(1)(b)—

*omit, insert—*

- (b) since the EIS mentioned in paragraph (a)(i) or the evaluation mentioned in paragraph (a)(ii) was completed—
- (i) for an environmental authority—the environmental risks of the activity and the way the activity will be carried out have not changed; or
  - (ii) for a proposed PRC plan—
    - (A) a post-mining land use or non-use management area has not changed; or
    - (B) achieving a stable condition for land has not changed; or
    - (C) the way a post-mining land use will be achieved, or a non-use

[s 111]

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management area will be managed, has not changed in a way likely to result in significantly different impacts on environmental values compared to the impacts on the values under the EIS; or

- (D) the day by which rehabilitation of land to a stable condition will be achieved has not changed.

**111 Amendment of s 144 (When information request must be made)**

Section 144(a)—

*omit, insert—*

- (a) for a site-specific application, within the following periods (each the *information request period*)—
- (i) if the application is accompanied by a proposed PRC plan—30 business days after the day the application stage ends for the application;
  - (ii) otherwise—20 business days after the day the application stage ends for the application; or

**112 Amendment of s 145 (Extending information request period)**

Section 145(2), after ‘subsection (1)’—

*insert—*

for the application

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**113 Amendment of s 150 (Notification stage does not apply to particular applications)**

Section 150(1)(c) and (d)—

*omit, insert—*

- (c) for an application for an environmental authority, since the EIS mentioned in paragraph (a) or (b) was notified—
  - (i) the environmental risks of the relevant activity and the way it will be carried out have not changed; or
  - (ii) if the application proposes a change to the way the relevant activity will be carried out—the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change; and
- (d) for a proposed PRC plan, since the EIS mentioned in paragraph (a) or (b) was notified—
  - (i) a post-mining land use or non-use management area has not changed; or
  - (ii) the day by which rehabilitation of land to a stable condition will be achieved has not changed.

**114 Amendment of s 153 (Required content of application notice)**

Section 153(3)(a) and (b)—

*omit, insert—*

- (a) for an environmental authority—
  - (i) the environmental risks of the activity that have changed as a result of the

[s 115]

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- proposed changes to the way the relevant activity is to be carried out; and
- (ii) the proposed changes to the way the relevant activity is to be carried out;
- (b) for a proposed PRC plan—
  - (i) the proposed change to a post-mining land use or non-use management area; and
  - (ii) the proposed change to the day by which rehabilitation of land to a stable condition will be achieved.

## **115 Amendment of s 160 (Right to make submission)**

Section 160(2)(a) and (b)—

*omit, insert—*

- (a) for an environmental authority—
  - (i) the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out; or
  - (ii) the proposed changes to the way the relevant activity is to be carried out;
- (b) for a proposed PRC plan—
  - (i) the post-mining land use or non-use management area that has changed; or
  - (ii) the change to the day by which rehabilitation of land to a stable condition will be achieved.

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**115A Amendment of s 165 (When does decision stage start—general)**

Section 165(2), ‘and 167’—

*omit, insert—*

, 167 and 167A

**115B Insertion of new ss 167A–167B**

After section 167—

*insert—*

**167A Particular site-specific applications—when decision stage starts and when report about public interest evaluation is required**

- (1) This section applies if—
  - (a) a site-specific application is accompanied by a proposed PRC plan that includes a proposed PRCP schedule for which a report about a public interest evaluation has been requested under section 136A; and
  - (b) the report has not been given to the administering authority on or before the day the decision stage would, other than for this section, have started for the application.
- (2) The decision stage starts on the day the report is given to the administering authority.
- (3) If an EIS has been submitted for the project the subject of the application, the administering authority may, by written notice, require the qualified entity for the report to give the administering authority the report within—
  - (a) a stated period of not more than 12 months; or
  - (b) if the administering authority decides to extend the period mentioned in paragraph

[s 115B]

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- (a) by not more than 6 months—the extended period.
- (4) The report about the public interest evaluation must be given to the administering authority within—
  - (a) if subsection (3) applies—the period mentioned in subsection (3)(a) or (b); or
  - (b) otherwise—
    - (i) 30 business days after the day the decision stage would, other than for this section, have started for the application; or
    - (ii) if the administering authority gives the applicant written notice extending the period mentioned in subparagraph (i) by not more than 10 business days—the period stated in the notice; or
    - (iii) if the applicant agrees to a longer period than the period mentioned in subparagraph (ii)—the agreed period.

### **167B Decision stage may be suspended in particular circumstances**

- (1) Subsections (2) to (4) apply in relation to a site-specific application accompanied by a proposed PRC plan that includes a proposed PRCP schedule if—
  - (a) a report about a public interest evaluation has been given to the administering authority for land the subject of the proposed PRCP schedule; and
  - (b) the report includes a statement or recommendation about a non-use management area that is inconsistent with the proposed PRCP schedule.

- 
- (2) The applicant may, by written notice, ask the administering authority to suspend the assessment process to enable the applicant to change the application so it is consistent with the report.
  - (3) If a notice is given by the applicant under subsection (2), the application process—
    - (a) stops on the day the applicant gives the administering authority the written notice; and
    - (b) restarts on the earlier of the following days—
      - (i) the day notified by the applicant to the administering authority;
      - (ii) the day that is 18 months after the day the decision stage started for the application.
  - (4) Part 2, division 6 does not apply to a change to the application made solely for the purpose mentioned in subsection (2).
  - (5) Subsection (6) applies if, under section 316PC, an entity asks the chief executive for a review of a report about a public interest evaluation.
  - (6) The assessment process stops on the day the applicant or entity makes the request to the chief executive, and restarts on the day the reviewing entity gives notice of its decision about the report under section 316PC(5)(b).

**116 Amendment of s 168 (When decision must be made—generally)**

- (1) Section 168(1) and (2)—

*omit, insert—*

- (1) If section 169 does not apply, a decision under subdivision 2 must be made within—

[s 117]

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- (a) if the application is accompanied by a proposed PRC plan—30 business days after the day the decision stage for the application starts; or
  - (b) otherwise—20 business days after the day the decision stage for the application starts.
- (2) The administering authority may, by written notice given to the applicant and without the applicant’s agreement, extend the period mentioned in subsection (1) by not more than the number of business days stated for making the decision under subsection (1).
- (2) Section 168(3), after ‘subsection (2)’—
- insert—*
- for the application

## **117 Amendment of s 172 (Deciding site-specific application)**

- (1) Section 172, heading, after ‘application’—
- insert—*
- and approving PRCP schedule**
- (2) Section 172—
- insert—*
- (3) If the site-specific application is accompanied by a proposed PRC plan, before making a decision under subsection (2), the administering authority must decide—
    - (a) to approve the proposed PRCP schedule for the plan, with or without conditions; or
    - (b) to refuse the proposed PRCP schedule.
  - (4) If the administering authority refuses the proposed PRCP schedule, the administering authority must also refuse the application under subsection (2).

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**118 Insertion of new s 176A**

After section 176—

*insert—*

**176A Criteria for decision—proposed PRCP schedule**

- (1) This section applies if a site-specific application is accompanied by a proposed PRC plan.
- (2) In deciding whether to approve the proposed PRCP schedule for the plan, the administering authority must—
  - (a) comply with any relevant regulatory requirement; and
  - (b) subject to paragraph (a), have regard to each of the following—
    - (i) the site-specific application;
    - (ii) the proposed PRC plan;
    - (iii) any response given for an information request for the proposed PRC plan;
    - (iv) the standard criteria;
    - (v) the guidelines under section 550.
- (3) The administering authority must not approve the proposed PRCP schedule unless—
  - (a) each proposed non-use management area under the schedule has been properly identified as a non-use management area; and
  - (b) if a public interest evaluation is required for a proposed non-use management area under the schedule—the report for the evaluation recommends it is in the public interest to approve the area as a non-use management area; and

[s 119]

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- (c) the administering authority is satisfied the schedule provides for all land the subject of the schedule to be—
  - (i) rehabilitated to a stable condition; or
  - (ii) managed as a non-use management area in a way that achieves best practice management of the area and minimises risks to the environment.

### **119 Amendment of s 181 (Notice of decision)**

Section 181(2)(b) and (c)—

*omit, insert—*

- (b) if the decision is to approve the application or is a decision under section 170(2)(b)—
  - (i) for an application for an environmental authority—be accompanied by a draft environmental authority in the approved form; and
  - (ii) for a proposed PRC plan accompanying the application for the environmental authority—be accompanied by the draft PRCP schedule for the plan; and
  - (iii) state that a submitter may, by written notice given to the administering authority, ask that its submission be taken to be an objection to the application or proposed PRC plan; and
- (c) state the applicant may, by written notice given to the administering authority, ask the administering authority to refer the application, including an accompanying proposed PRC plan, to the Land Court.

---

## **120 Replacement of s 190 (Nature of objections decision)**

Section 190—

*omit, insert—*

### **190 Requirements for objections decision**

- (1) An objections decision for an application for an environmental authority must be a recommendation to the administering authority that—
  - (a) if a draft environmental authority was given for the application—
    - (i) the application be approved on the basis of the draft environmental authority for the application; or
    - (ii) the application be approved, but on stated conditions that are different from the conditions in the draft environmental authority; or
    - (iii) the application be refused; or
  - (b) if a draft environmental authority was not given for the application—
    - (i) the application be approved subject to conditions; or
    - (ii) the application be refused.
- (2) An objections decision for a proposed PRC plan accompanying the application for the environmental authority must be a recommendation to the administering authority that the draft PRCP schedule for the plan—
  - (a) be approved, with or without stated conditions; or
  - (b) be refused.
- (3) However, if a relevant mining lease is, or is included in, a coordinated project, any stated

[s 121]

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conditions under subsection (1)(a)(ii) or (b)(i) or (2)(a)—

- (a) must include the Coordinator-General's conditions; and
- (b) can not be inconsistent with the Coordinator-General's conditions.

**121 Amendment of s 191 (Matters to be considered for objections decision)**

Section 191(d), after 'authority'—

*insert*—

or draft PRCP schedule

**122 Replacement of s 194 (Final decision on application)**

Section 194—

*omit, insert*—

**194 When administering authority must make final decision on application**

- (1) The administering authority must make a final decision under section 194A for an application if—
  - (a) the administering authority referred the application to the Land Court under section 185 and an objections decision is made about the application; or
  - (b) the administering authority referred the application to the Land Court under section 185 because of an objection notice but, before an objections decision is made about the application, all objection notices for the application are struck out or withdrawn.
- (2) The final decision must be made—

- (a) if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192—
  - (i) if the application is accompanied by a proposed PRC plan—within 20 business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
  - (ii) otherwise—within 10 business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
- (b) if paragraph (a) does not apply—
  - (i) if the application is accompanied by a proposed PRC plan—within 20 business days after receipt by the administering authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn; or
  - (ii) otherwise—within 10 business days after receipt by the administering authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn.

### **194A Final decision on application**

- (1) The administering authority's final decision on an application for an environmental authority must be—
  - (a) if a draft environmental authority was given for the application—

[s 122]

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- (i) the application be approved on the basis of the draft environmental authority for the application; or
  - (ii) the application be approved, but on stated conditions that are different from the conditions in the draft environmental authority; or
  - (iii) the application be refused; or
- (b) if a draft environmental authority was not given for the application—
  - (i) the application be approved subject to conditions; or
  - (ii) the application be refused.
- (2) The administering authority's final decision on a proposed PRC plan accompanying the application for the environmental authority must be—
  - (a) the draft PRCP schedule for the plan be approved, with or without conditions; or
  - (b) the draft PRCP schedule be refused.
- (3) If the administering authority refuses to approve a draft PRCP schedule for a proposed PRC plan accompanying an application for an environmental authority, the administering authority must also refuse the application for the environmental authority.

### **194B Matters to be considered in making final decision**

- (1) In making a final decision on an application under section 194A, the administering authority must—
  - (a) have regard to—
    - (i) any objections decision for the application; and

- (ii) advice given by the MRA Minister or State Development Minister to the administering authority under section 193; and
  - (iii) if a draft environmental authority was given for the application, or conditions were stated for the draft PRCP schedule for the proposed PRC plan accompanying the application—the draft environmental authority or conditions; and
- (b) if a draft environmental authority was not given for the application, or conditions were not stated for the draft PRCP schedule—
- (i) comply with relevant regulatory requirements; and
  - (ii) subject to subparagraph (i), have regard to each matter mentioned in subsection (2).
- (2) For subsection (1)(b)(ii), the matters are—
- (a) the application; and
  - (b) if the application is for an environmental authority—the standard conditions for the relevant activity or authority; and
  - (c) a response given to an information request for the application; and
  - (d) the standard criteria.

## **123 Replacement of ss 195 and 197**

Sections 195 and 197—

*omit, insert—*

### **195 Issuing environmental authority or PRCP schedule**

- (1) This section applies if the administering authority—
  - (a) decides to approve an application for an environmental authority; or
  - (b) decides to approve a draft PRCP schedule for a proposed PRC plan; or
  - (c) makes a decision under section 170(2)(b) or 171(2)(b).
- (2) The administering authority must, within the period stated in section 196—
  - (a) for a decision mentioned in subsection (1)(a) or (c)—issue an environmental authority to the applicant; or
  - (b) for a decision mentioned in subsection (1)(b)—issue a PRCP schedule to the applicant.

### **196 Requirements for issuing environmental authority or PRCP schedule**

For section 195(2), the period within which an environmental authority or PRCP schedule must be issued is—

- (a) if the application is referred to the Land Court under section 185—within 5 business days after a final decision for the application and schedule is made under section 194; or
- (b) if notice of the decision is given under section 181 and the application is not referred to the Land Court under section 185—within 25 business days after the notice is given under section 181; or

- (c) for an application for a development approval that, under section 115, is taken to be an application for an environmental authority—
  - (i) if the administering authority is the assessment manager for the development application—when the decision notice is given under the Planning Act for the development application; or
  - (ii) if the administering authority is a referral agency for the development application—when the administering authority gives its referral agency’s response under the Planning Act to the applicant for the development application; or
  - (iii) if the planning chief executive is a referral agency for the development application—within 5 business days after the planning chief executive gives its referral agency’s response under the Planning Act to the applicant for the development application; or
  - (iv) if the planning chief executive is the assessment manager for the development application—within 5 business days after the planning chief executive gives the applicant a decision notice under the Planning Act for the development application;
- (d) otherwise—within 5 business days after the decision mentioned in section 194(2) is made.

[s 124]

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### **197 Including environmental authorities and PRC plans in register**

After an environmental authority or PRCP schedule is issued, the administering authority must include a copy of the environmental authority or PRC plan for the PRCP schedule in the relevant register.

### **124 Amendment of s 200 (When environmental authority takes effect)**

Section 200(1)—

*insert—*

*Note—*

See section 297 for conditions about when the holder of an environmental authority for a resource activity must not carry out, or allow the carrying out, of the activity under the authority.

### **125 Insertion of new ch 5, pt 5, div 5A**

Chapter 5, part 5—

*insert—*

#### **Division 5A PRCP schedules**

##### **202A Requirements for PRCP schedule**

A PRCP schedule must—

- (a) be in the approved form; and
- (b) contain all conditions imposed on the schedule.

##### **202B When PRCP schedule takes effect**

A PRCP schedule has effect on the day the environmental authority for carrying out relevant

activities on land to which the schedule relates takes effect.

### **202C Term of PRCP schedule**

- (1) A PRCP schedule continues in force until the environmental authority for the relevant activities to which the PRCP schedule relates is cancelled or surrendered.
- (2) To remove any doubt, it is declared that a PRCP schedule continues in force—
  - (a) in relation to a relevant activity carried out on land identified by reference to a resource tenure, even if the resource tenure expires or is cancelled; and
  - (b) even if the environmental authority for carrying out a relevant activity on land to which the PRCP schedule relates is suspended under part 11 or 11A.

### **202D PRCP schedule includes conditions**

A PRCP schedule includes the conditions imposed on the schedule.

### **202E Environmental authority overrides PRCP schedule**

If there is an inconsistency between an environmental authority and a PRCP schedule, the environmental authority prevails to the extent of the inconsistency.

## **126 Amendment of s 203 (Conditions generally)**

- (1) Section 203(1), ‘or draft environmental authority’—  
*omit, insert—*

[s 127]

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, draft environmental authority, PRCP schedule or  
draft PRCP schedule

- (2) Section 203(2), ‘on an environmental authority or draft  
environmental authority’—

*omit.*

**127 Amendment of s 205 (Conditions that must be imposed if  
application relates to coordinated project)**

- (1) Section 205(1)(a), after ‘application’—

*insert—*

, or a PRCP schedule for a proposed PRC plan  
accompanying the application,

- (2) Section 205(2), ‘or draft environmental authority any  
conditions for the authority’—

*omit, insert—*

, draft environmental authority, PRCP schedule or  
draft PRCP schedule any conditions for the  
authority or schedule

- (3) Section 205(3)—

*omit, insert—*

- (3) However, if a report for a public interest  
evaluation for an area of land identified as a  
non-use management area in the PRCP schedule  
or draft PRCP schedule includes a  
recommendation that is inconsistent with the  
Coordinator-General’s conditions, the conditions  
imposed by the administering authority must be  
consistent with the report.

- (4) Any other condition imposed on the authority or  
PRCP schedule can not be inconsistent with a  
Coordinator-General’s condition.

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**128 Insertion of new s 206A**

After section 206—

*insert—*

**206A Conditions for PRCP schedules**

- (1) It is a condition of a PRCP schedule that, in carrying out a relevant activity under the schedule, the holder must comply with a requirement stated in the environmental authority relevant to carrying out the activity.
- (2) Also, it is a condition of a PRCP schedule that the holder must comply with the following matters stated in the schedule—
  - (a) each rehabilitation milestone and management milestone;
  - (b) when each rehabilitation milestone and management milestone is to be achieved.
- (3) Without limiting the conditions that may be imposed on a PRCP schedule or proposed PRCP schedule, a condition may require the holder of the schedule to give the administering authority written notice (a *statement of compliance*) about a document or work relating to a relevant activity.
- (4) The condition mentioned in subsection (1) applies for a requirement stated in the environmental authority even if the environmental authority is suspended.

**129 Amendment of s 207 (Conditions that may be imposed)**

- (1) Section 207, heading, after ‘imposed’—

*insert —*

**on environmental authority**

- (2) Section 207(1)(e), after ‘activity’—

*insert—*

[s 130]

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, other than a relevant activity to which a PRCP schedule applies

(3) Section 207(1), note—

*omit, insert—*

*Note—*

For conditions about ERC decisions and financial assurance, see sections 297 and 308.

**130 Amendment of s 208 (Condition requiring statement of compliance)**

Section 208(1), ‘or draft environmental authority’—

*omit, insert—*

, draft environmental authority, PRCP schedule or proposed PRCP schedule

**131 Amendment of s 210 (Inconsistencies between particular conditions)**

Section 210, heading, after ‘conditions’—

*insert—*

**of environmental authorities**

**132 Amendment of ch 5, pt 6, hdg (Amending environmental authorities by administering authority)**

Chapter 5, part 6, heading, ‘Amending environmental authorities’—

*omit, insert—*

**Amendments**

**133 Amendment of s 211 (Corrections)**

(1) Section 211, after ‘an environmental authority’—

*insert—*

or PRCP schedule

- (2) Section 211(a), ‘environmental authority’—  
*omit.*

**134 Amendment of s 212 (Amendment of particular environmental authorities to reflect NNTT conditions)**

- (1) Section 212, heading, ‘of particular environmental authorities’—

*omit.*

- (2) Section 212(1), after ‘authority’—

*insert—*

or PRCP schedule

- (3) Section 212(2), after ‘environmental authority’—

*insert—*

or impose conditions on the PRCP schedule

- (4) Section 212(3)—

*omit, insert—*

- (3) The administering authority must give written notice of the amendment or conditions to the holder of the environmental authority or PRCP schedule.

**135 Amendment of s 212A (Amendment of particular environmental authorities to reflect regional interests development approval conditions)**

- (1) Section 212A, heading, ‘of particular environmental authorities’—

*omit.*

- (2) Section 212A(1) and (2), after ‘environmental authority’—

*insert—*

[s 136]

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or PRCP schedule

- (3) Section 212A(3), ‘environmental authority holder’—

*omit, insert—*

holder of the environmental authority or PRCP  
schedule

- (4) Section 212A(4), from ‘or a regional’ to ‘of the authority’—

*omit, insert—*

, PRCP schedule or a regional interests  
development approval includes a reference to a  
condition of the authority, schedule

### **136 Amendment of s 215 (Other amendments)**

- (1) Section 215(1), after ‘an environmental authority’—

*insert—*

or PRCP schedule

- (2) Section 215(1)(b)—

*omit, insert—*

(b) the holder of the authority or schedule has  
agreed in writing to the amendment.

- (3) Section 215(2) and (3)—

*omit, insert—*

(2) For subsection (1)(a), the matters are the  
following—

- (a) a contravention of this Act or an  
environmental offence committed by the  
holder;
- (b) for an environmental authority issued for a  
standard application or variation  
application—the relevant activity does not  
comply with the eligibility criteria for the  
activity;

- (c) for an environmental authority—
  - (i) another entity becomes a holder of the authority; or
  - (ii) another entity becomes a holding company of a holder of the authority;
- (d) the authority was issued or schedule was approved because of a materially false or misleading representation or declaration, made either orally or in writing;
- (e) for an environmental authority—the authority was issued on the basis of a miscalculation of—
  - (i) the environmental values affected or likely to be affected by the relevant activity; or
  - (ii) the quantity or quality of contaminant permitted to be released into the environment; or
  - (iii) the effects of the release of a quantity or quality of contaminant permitted to be released into the environment;
- (f) the issue of a temporary emissions licence;
- (g) the approval of an environmental protection policy or the approval of an amendment of an environmental protection policy;
- (h) for a PRCP schedule—an audit report for the schedule given to the administering authority under part 12;
- (i) an environmental audit, investigation or report under chapter 7, part 2;
- (j) the amendment or withdrawal of an environmental protection order;
- (k) a compliance statement given under this chapter;

[s 136]

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- (l) a report made by or for, or approved by, a recognised entity if the report—
  - (i) is relevant to the authority or schedule, or a relevant activity carried out under the authority or schedule; and
  - (ii) if the administering authority is not the chief executive—has been accepted by the chief executive;
- (m) an annual return required under part 15, division 1;
- (n) a significant change in the way in which, or the extent to which, the activity is being carried out;

*Example of significant change for paragraph (n)—*

The conditions of an environmental authority for a mining activity authorised under a mining lease were imposed on the basis that a particular method for removing contaminants from a waste stream for a relevant mining activity would be used. The mining lease is transferred and the transferee changes the method.

- (o) for an environmental authority or PRCP schedule for a resource activity—a relevant tenure (the *old tenure*) for the authority or schedule is replaced with a new resource tenure of the same type for all or part of the old tenure's area under the resource legislation;
- (p) for an environmental authority—a surrender application under part 10 is approved for a partial surrender of the authority;
- (q) for an environmental authority for a resource activity—an underground water impact report under the *Water Act 2000*, chapter 3, identifies impacts, or potential impacts, on an environmental value;

(r) another circumstance prescribed by regulation.

(3) An amendment because of a matter mentioned in subsection (2)(c) may only be to impose a condition under section 308 requiring the holder of the environmental authority to give the administering authority financial assurance.

**137 Amendment of s 216 (Application of div 2)**

(1) Section 216, after ‘an environmental authority’—

*insert—*

or PRCP schedule

(2) Section 216(b), ‘environmental authority holder’—

*omit, insert—*

holder of the environmental authority or PRCP schedule

**138 Amendment of s 217 (Notice of proposed amendment)**

(1) Section 217(1), ‘environmental authority holder’—

*omit, insert—*

holder of the environmental authority or PRCP schedule

(2) Section 217(3), after ‘environmental authority’—

*insert—*

or PRCP schedule

**139 Amendment of s 218 (Considering representations)**

Section 218, after ‘environmental authority’—

*insert—*

or PRCP schedule

[s 140]

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**140 Amendment of s 220 (Notice of amendment decision)**

Section 220, ‘environmental authority holder’—

*omit, insert—*

holder of the environmental authority or PRCP  
schedule

**141 Amendment of s 221 (Steps for amendment)**

(1) Section 221(1) and (2), after ‘environmental authority’—

*insert—*

or PRCP schedule

(2) Section 221(4)—

*renumber* as section 221(3).

(3) Section 221(3), as renumbered, definition *relevant period*,  
paragraph (c)—

*omit, insert—*

(b) if the administering authority amends the  
environmental authority or PRCP schedule  
with the holder’s agreement—10 business  
days after the agreement is given; or

(4) Section 221(3), as renumbered, definition *relevant period*,  
paragraph (d)—

*renumber* as paragraph (c).

**142 Amendment of ch 5, pt 7, hdg (Amendment of  
environmental authorities by application)**

Chapter 5, part 7, heading, ‘of environmental authorities’—

*omit.*

**143 Amendment of s 223 (Definitions for pt 7)**

(1) Section 223, heading, ‘pt 7’—

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*omit, insert—*

**part**

- (2) Section 223, definitions *major amendment* and *minor amendment—*

*omit.*

- (3) Section 223—

*insert—*

***major amendment***, for an environmental authority or PRCP schedule, means an amendment that is not a minor amendment.

***minor amendment***, for an environmental authority or PRCP schedule, means an amendment that is—

- (a) for an environmental authority—
  - (i) a condition conversion; or
  - (ii) a minor amendment (threshold); or
- (b) for a PRCP schedule—a minor amendment (PRCP threshold).

***minor amendment (PRCP threshold)***, for a PRCP schedule, means an amendment that—

- (a) does not change a post-mining land use or non-use management area; or
- (b) does not affect whether a stable condition will be achieved for land under the schedule; or
- (c) does not change the way a post-mining land use will be achieved, or a non-use management area will be managed, in a way likely to result in significantly different impacts on environmental values compared to the impacts on the values under the schedule before the change; or

[s 143]

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- (d) does not relate to a new mining tenure for the schedule; or
  - (e) does not change when a rehabilitation milestone or management milestone will be achieved by more than 5 years after the time stated in the schedule when it was first approved; or
  - (f) does not extend the day by which rehabilitation of land to a stable condition will be achieved.
- (4) Section 223, definition *minor amendment (threshold)*, ‘the administering authority is satisfied’—  
*omit.*
- (5) Section 223, definition *minor amendment (threshold)*, paragraphs (g) and (h)—  
*omit, insert—*
- (g) for an environmental authority for a petroleum activity—
    - (i) involves constructing a new pipeline that does not exceed 150km; or
    - (ii) involves extending an existing pipeline so that the extension does not exceed 10% of the existing length of the pipeline; and
  - (h) if the amendment relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—seeks, in the amendment application under section 224, an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit.

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**144 Amendment of s 224 (Who may apply)**

Section 224, after ‘environmental authority’—

*insert—*

or PRCP schedule

**145 Replacement of s 226 (Requirements for amendment application generally)**

Section 226—

*omit, insert—*

**226 Requirements for amendment applications generally**

- (1) An amendment application must—
  - (a) be made to the administering authority; and
  - (b) be in the approved form; and
  - (c) be accompanied by the fee prescribed by regulation; and
  - (d) describe the proposed amendment; and
  - (e) describe the land that will be affected by the proposed amendment; and
  - (f) include any other document relating to the application prescribed by regulation.
- (2) However, subsection (1)(d) and (e) does not apply to an application for a condition conversion.

**226A Requirements for amendment applications for environmental authorities**

- (1) If the amendment application is for the amendment of an environmental authority, the application must also—

[s 145]

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- (a) describe any development permits in effect under the Planning Act for carrying out the relevant activity for the authority; and
- (b) state whether each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity; and
- (c) if the application states that each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity—include a declaration that the statement is correct; and
- (d) state whether the application seeks to change a condition identified in the authority as a standard condition; and
- (e) if the application relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—state whether the applicant seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit; and
- (f) include an assessment of the likely impact of the proposed amendment on the environmental values, including—
  - (i) a description of the environmental values likely to be affected by the proposed amendment; and
  - (ii) details of emissions or releases likely to be generated by the proposed amendment; and
  - (iii) a description of the risk and likely magnitude of impacts on the environmental values; and

- (iv) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
  - (v) if a PRCP schedule does not apply for each relevant activity—details of how the land the subject of the application will be rehabilitated after each relevant activity ends; and
  - (g) include a description of the proposed measures for minimising and managing waste generated by amendments to the relevant activity; and
  - (h) include details of any site management plan or environmental protection order that relates to the land the subject of the application.
- (2) Subsection (1)(f) does not apply for an amendment application for an environmental authority if—
- (a) the process under chapter 3 for an EIS for the proposed amendment has been completed; and
  - (b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS.
- (3) Also, subsection (1)(a), (d), (e), (f), (g) and (h) does not apply to an application for a condition conversion.

### **226B Requirements for amendment applications for PRCP schedules**

An amendment application for a PRCP schedule must be accompanied by an amended rehabilitation planning part for the holder's PRC plan that complies with section 126C in relation to

[s 146]

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the proposed amendment.

**146 Amendment of s 227A (Early refusal of particular amendment applications and requirement to replace environmental authority)**

Section 227A(4), ‘section 314(3)’—

*omit, insert—*

section 316P(3)

**147 Amendment of s 228 (Assessment level decision for amendment application)**

(1) Section 228—

*insert—*

(1A) Despite section 223, definition *minor amendment (PRCP threshold)*, paragraphs (e) and (f), the administering authority may decide under subsection (1) that a proposed amendment changing the order of at least 2 of the days when rehabilitation of land to a stable condition will be achieved is a minor amendment if the administering authority is satisfied the applicant has—

- (a) undertaken adequate consultation with the community in relation to the proposed amendment; and
- (b) adequately addressed any matters raised by the community during consultation.

(2) Section 228(1A) to (3)—

*renumber* as section 228(2) to (4).

**148 Amendment of s 232 (Relevant application process applies)**

(1) Section 232(1) and (2)—

*omit, insert—*

- (1) Section 136A and parts 3 to 5 apply in relation to the amendment application—
    - (a) if the amendment application is for a PRCP schedule—as if the amendment application and amended rehabilitation part for the holder’s PRC plan were a proposed PRC plan accompanying a site-specific application; or
    - (b) otherwise—as if it were a site-specific application.
  - (2) However—
    - (a) if the amendment is a change to a PRCP schedule, part 4 does not apply to the application to the extent the change—
      - (i) reduces the area of a non-use management area under the schedule; or
      - (ii) is likely to reduce, or cause no change to, the impacts on environmental values caused by the activities the subject of the schedule; or
    - (b) if the amendment application is for an environmental authority for a resource activity—part 4 applies only if, under section 230, the notice given under section 229 states part 4 applies.
- (2) Section 232(4)(a) and (b), after ‘environmental authority’—  
*insert—*  
or PRCP schedule

**149 Amendment of s 235 (Criteria for deciding amendment application)**

Section 235, after ‘section 176(2)(b)’—

[s 150]

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*insert—*

or 176A

**150 Amendment of s 240 (Deciding amendment application)**

(1) Section 240(1)(a), after ‘conversion’—

*insert—*

for an environmental authority

(2) Section 240(3), after ‘environmental authority’—

*insert—*

or PRCP schedule

**151 Amendment of s 241 (Criteria for deciding amendment application)**

Section 241(b)(ii), after ‘authority’—

*insert—*

or PRCP schedule

**152 Amendment of s 242 (Steps after deciding amendment application)**

Section 242(1), after ‘environmental authority’—

*insert—*

or PRCP schedule

**153 Amendment of ch 5, pt 8, hdg (Amalgamating and de-amalgamating environmental authorities)**

Chapter 5, part 8, heading, after ‘environmental authorities’—

*insert—*

**and PRCP schedules**

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**154 Amendment of s 246 (Requirements for amalgamation application)**

Section 246(d)—

*omit, insert—*

- (d) if PRC plans relating to the environmentally relevant activities for the environmental authorities will require amalgamation if the application is approved—be accompanied by a proposed amalgamated PRC plan for the activities; and
- (e) be accompanied by the fee prescribed by regulation.

**155 Amendment of s 247 (Deciding amalgamation application)**

(1) Section 247—

*insert—*

- (3A) If the administering authority approves an application for an amalgamated project authority for environmental authorities for which PRCP schedules also apply, each of the schedules must also be amalgamated.

(2) Section 247(3A) and (4)—

*renumber* as section 247(4) and (5).

**156 Amendment of s 248 (Steps after deciding amalgamation application)**

Section 248(c)—

*omit, insert—*

- (c) if PRCP schedules for existing environmental authorities are amalgamated—give the applicant a copy of the amalgamated PRCP schedule; and

[s 157]

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- (d) include a copy of the amalgamated environmental authority and PRC plan in the relevant register.

**157 Replacement of s 250 (Relationship between amendment application and amalgamation application)**

Section 250—

*omit, insert—*

**250 Relationship between amendment application and amalgamation application**

- (1) This section applies if, before an amalgamation application for an environmental authority is decided—
  - (a) an amendment application for the environmental authority is made but not decided; or
  - (b) an amendment application for a PRCP schedule for relevant activities to which the environmental authority applies is made but not decided.
- (2) If the amalgamation application is approved, the amendment application is taken to be—
  - (a) for an environmental authority mentioned in subsection (1)(a)—an amendment application for the amalgamated environmental authority; or
  - (b) for a PRCP schedule mentioned in subsection (1)(b)—an amendment application for the amalgamated PRCP schedule.

**158 Amendment of s 250B (Requirements for de-amalgamation application)**

Section 250B(c)—

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*omit, insert—*

- (c) if a PRCP schedule relating to environmentally relevant activities for the authority will require de-amalgamation if the application is approved—be accompanied by proposed de-amalgamated PRC plans for the activities; and
- (d) be accompanied by the fee prescribed by regulation.

## **159 Replacement of s 250C (De-amalgamation)**

Section 250C—

*omit, insert—*

### **250C De-amalgamation**

- (1) Within 15 business days after receiving a de-amalgamation application that complies with section 250B, the administering authority must—
  - (a) de-amalgamate the environmental authority to give effect to the de-amalgamation; and
  - (b) for de-amalgamation of an environmental authority for relevant activities to which a PRCP schedule relates—de-amalgamate the schedule to the extent necessary to give effect to the de-amalgamation of the authority; and
  - (c) issue the de-amalgamated environmental authorities to the applicant; and
  - (d) give the applicant a copy of any de-amalgamated PRCP schedules; and
  - (e) include a copy of each environmental authority issued under paragraph (c), and each de-amalgamated PRC plan, in the relevant register.
- (2) If a PRCP schedule is de-amalgamated under

[s 160]

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subsection (1)(b), the holder of each de-amalgamated schedule must be the holder of the de-amalgamated environmental authority.

**160 Amendment of s 250D (When de-amalgamation takes effect)**

Section 250D(c), ‘section 250C(b)’—

*omit, insert—*

section 250C(1)(c)

**161 Amendment of s 262 (Requirements for surrender application)**

(1) Section 262(1)(d)—

*omit, insert—*

- (d) if the relevant activity was carried out—be accompanied by—
  - (i) if the environmental authority contains conditions about rehabilitation and a PRCP schedule does not apply for the relevant activity—a final rehabilitation report for the authority that complies with section 264; and
  - (ii) if a PRCP schedule applies for the relevant activity—a post-mining management report under section 264A; and
  - (iii) a compliance statement for the environmental authority and, if a PRCP schedule applies for the relevant activity, the PRCP schedule and the conditions imposed on the schedule; and
  - (iv) the fee prescribed by regulation.

(2) Section 262(2)(b)—

*omit, insert—*

- (b) state the following—
  - (i) the extent to which relevant activities carried out under the environmental authority have complied with the conditions of the authority;
  - (ii) if a final rehabilitation report is required for the application—the extent to which the report is accurate; and
- (c) if a PRCP schedule applies for the relevant activities—state the following—
  - (i) whether the rehabilitation milestones and management milestones under the schedule have been met;
  - (ii) the extent to which conditions imposed on the schedule have been complied with;
  - (iii) the extent to which the post-mining management report is accurate and complies with section 264A.

**162 Amendment of ch 5, pt 10, div 3, hdg (Final rehabilitation reports)**

Chapter 5, part 10, division 3, heading, after ‘reports’—  
*insert—*

**and post-mining management reports**

**163 Insertion of new s 264A**

Chapter 5, part 10, division 3—  
*insert—*

[s 164]

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### **264A Requirements for post-mining management report**

A post-mining management report for land must—

- (a) be in the approved form; and
- (b) state the requirements for ongoing management of the land; and
- (c) propose the residual risks associated with the rehabilitation of the land mentioned in section 264(1)(d)(iii); and
- (d) include an environmental risk assessment for the land that complies with section 264(2); and
- (e) include the matters prescribed by regulation.

### **164 Amendment of s 268 (Criteria for decision generally)**

- (1) Section 268(b)(iii), after ‘authority’—

*insert—*

and, if a PRCP schedule applies for carrying out a relevant activity under the authority, the post-mining management report under section 264A for the schedule;

- (2) Section 268(b)(iv)—

*omit, insert—*

- (iv) the compliance statement for the environmental authority or the part of the environmental authority the subject of the application, and any PRCP schedule for carrying out a relevant activity under the authority;

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**165 Amendment of s 268A (Criteria for decision—prescribed resource activities in overlapping area)**

- (1) Section 268A(2)(a), after ‘authority’—

*insert—*

, or a PRCP schedule,

- (2) Section 268A(2)(b), ‘authority for’—

*omit, insert—*

authority or PRCP schedule for

**166 Amendment of s 269 (Restrictions on giving approval)**

- (1) Section 269(1)(b), after ‘requiring rehabilitation’—

*insert—*

, and a PRCP schedule does not apply for a relevant activity under the environmental authority

- (2) Section 269(1)(c)—

*omit, insert—*

(c) if a PRCP schedule applies for carrying out a relevant activity under the environmental authority—the administering authority is satisfied the rehabilitation milestones and management milestones under the schedule have been met; and

(d) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.

- (3) Section 269(2)(a), after ‘environmental authority’—

*insert—*

, or a PRCP schedule,

- (4) Section 269(2)(b), ‘authority for’—

[s 167]

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*omit, insert—*

authority or PRCP schedule for

**167 Insertion of new s 269A**

After section 269—

*insert—*

**269A Effect of approval of surrender application on PRCP schedule**

- (1) This section applies if—
  - (a) the administering authority approves a surrender application, other than a surrender application for a part of an environmental authority; and
  - (b) a PRCP schedule applies for carrying out relevant activities under the environmental authority as in force before the surrender.
- (2) On the approval of the surrender application, the PRCP schedule ceases to have effect.

**168 Amendment of s 275 (Steps after deciding surrender application)**

- (1) Section 275(a)(ii)(B), ‘or’—

*omit, insert—*

and

- (2) Section 275(a)—

*insert—*

- (iii) give written notice of the decision to the scheme manager; or

**169 Insertion of new s 275A**

After section 275—

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*insert—*

**275A Administering authority may amend PRCP schedule**

- (1) This section applies if—
  - (a) a surrender application for part of an environmental authority is approved; and
  - (b) a PRCP schedule applies for carrying out a relevant activity under the environmental authority as in force before the surrender; and
  - (c) because of the approval of the surrender application, the holder is no longer required to comply with a requirement under the PRCP schedule or a condition imposed on the schedule.
- (2) The administering authority must, within the relevant period—
  - (a) amend the PRCP schedule or a condition imposed on the schedule to remove the requirement; and
  - (b) give a copy of the amended PRCP schedule to the holder; and
  - (c) include a copy of the amended PRCP schedule in the relevant register; and
  - (d) give the holder an information notice about the amendment.
- (3) In this section—

***relevant period*** means 10 business days after the administering authority decides the surrender application.

[s 170]

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**170 Amendment of s 278 (Cancellation or suspension by administering authority)**

(1) Section 278(2)(b), ‘section 296’—

*omit, insert—*

section 311

(2) Section 278(2)(baa), ‘section 302’—

*omit, insert—*

section 312

(3) Section 278(2)(ba), ‘section 306’—

*omit, insert—*

section 315

(4) Section 278(2)(c), ‘section 307(2)(b)’—

*omit, insert—*

section 316(2)(b)

(5) Section 278(2)—

*insert—*

(ca) the holder has failed to comply with a requirement to pay a contribution or give a surety to the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*;

(cb) if a PRCP schedule applies for carrying out relevant activities under the environmental authority—the holder has failed to comply with the schedule;

**171 Insertion of new s 278A**

Chapter 5, part 11, division 1—

*insert—*

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**278A Effect of cancellation or suspension of environmental authority on PRCP schedule**

- (1) If a PRCP schedule applies for carrying out a relevant activity to which a suspended environmental authority relates, the schedule—
  - (a) continues in force for the relevant activity; and
  - (b) is not affected by the suspension.
- (2) If a PRCP schedule applies for carrying out a relevant activity under an environmental authority that is cancelled, the schedule ceases to have effect on the cancellation.

**172 Amendment of s 284E (Restrictions on giving approval)**

Section 284E, from ‘only if’—

*omit, insert—*

only if—

- (a) the environmental authority is not subject to conditions requiring rehabilitation; or
- (b) a PRCP schedule does not apply for carrying out relevant activities under the environmental authority.

**173 Replacement of ch 5, pt 12 (General provisions)**

Chapter 5, part 12—

*omit, insert—*

**Part 12 Auditing PRCP schedules**

**Division 1 Requirements for audit**

[s 173]

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### **285 PRCP schedule must be audited**

- (1) The holder of a PRCP schedule must commission an audit of the schedule by a rehabilitation auditor for the following periods (each an *audit period*)—
  - (a) the 3-year period starting on the day the schedule takes effect;
  - (b) each 3-year period starting on the day after the previous audit period ended.
- (2) The holder must, within 4 months after the end of each audit period, give the administering authority—
  - (a) the rehabilitation auditor's report (an *audit report*) about the audit that complies with section 286; and
  - (b) a declaration for the audit report stating the holder—
    - (i) has not knowingly given false or misleading information to the rehabilitation auditor; and
    - (ii) has given all relevant information to the rehabilitation auditor.

Maximum penalty—100 penalty units.

- (3) The declaration mentioned in subsection (2)(b) must be made—
  - (a) if the holder is an individual—by the holder; or
  - (b) if the holder is a corporation—by an executive officer of the corporation.

### **286 Requirements for report about PRCP schedule audit**

An audit report for a PRCP schedule must be in the approved form, and include the following—

- (a) a statement about whether the holder has complied with the schedule during the audit period, including—
  - (i) details of actions the holder has taken, or failed to take, in relation to the rehabilitation milestones and management milestones under the schedule; and
  - (ii) whether the holder has complied, or failed to comply, with conditions imposed on the schedule; and
  - (iii) whether information given to the administering authority under this Act about rehabilitation carried out under the schedule is accurate;
- (b) an assessment of whether the post-mining land use for land the subject of the schedule is likely to be achieved, having regard to the rehabilitation that has been and is to be carried out under the schedule;
- (c) recommendations about actions the holder should take to ensure rehabilitation milestones and management milestones are achieved or conditions of the schedule are complied with;
- (d) the other information the administering authority reasonably considers necessary to decide whether to take action to amend the schedule under part 6.

## **Division 2                    Steps after receiving audit report and rehabilitation auditors**

[s 173]

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### **287 Administering authority may request further information**

- (1) After receiving an audit report for a PRCP schedule, the administering authority may, by written notice given to the holder of the schedule, ask the holder to give further information the authority requires to decide whether to take action to amend the schedule under part 6.
- (2) The request must—
  - (a) be made within 10 business days after the report is received; and
  - (b) state a period of at least 20 business days within which the holder must give the information.

### **288 Rehabilitation auditors**

- (1) A person may be commissioned to carry out an audit of a PRCP schedule only if the person meets the requirements decided by the chief executive.
- (2) To remove any doubt, it is declared that chapter 12, part 3A does not apply in relation to rehabilitation auditors.

## **Part 13 Plan of operations**

### **289 Definition for part**

In this part—

*plan of operations*, for a petroleum lease, includes a plan of operations given to the administering authority for a proposed lease substantially the same as the petroleum lease.

## **290 Application of part**

This part applies in relation to an environmental authority for a petroleum activity authorised under a petroleum lease, if the petroleum activity is an ineligible ERA.

## **291 Plan of operations required before acting under petroleum lease**

The holder of the environmental authority must not carry out, or allow the carrying out of, a petroleum activity under the petroleum lease unless—

- (a) the holder has given the administering authority a plan of operations for the petroleum activities; and
- (b) at least 20 business days, or a shorter period agreed in writing by the administering authority and the holder, have passed since the plan was submitted; and
- (c) the plan complies with section 292.

Maximum penalty—100 penalty units.

*Note—*

See section 297 for conditions about when the holder of an environmental authority for a resource activity must not carry out, or allow the carrying out, of the resource activity under the authority.

## **292 Requirements for plan of operations**

- (1) A plan of operations must—
  - (a) be in the approved form; and
  - (b) describe the following—
    - (i) each petroleum lease for the environmental authority;

[s 173]

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- (ii) the land to which each petroleum lease relates;
    - (iii) the land to which the plan applies; and
  - (c) state the period to which the plan applies (the *plan period*); and
  - (d) include the following—
    - (i) a map showing where all petroleum activities are to be carried out on the land;
    - (ii) an action program for complying with the conditions of the environmental authority;
    - (iii) a program for the rehabilitation of land disturbed or proposed to be disturbed under each petroleum lease;
    - (iv) the matters prescribed under an environmental protection policy or by regulation; and
  - (e) be accompanied by a compliance statement for the plan; and
  - (f) be accompanied by the fee prescribed by regulation.
- (2) A compliance statement under subsection (1)(e) must—
- (a) state the extent to which the plan complies with the conditions of the environmental authority; and
  - (b) be made—
    - (i) if the holder is an individual—by the holder; or
    - (ii) if the holder is a corporation—by an executive officer of the corporation.
- (3) The plan period can not be longer than 5 years.

- (4) A proposed plan of operations may relate to 1 or more petroleum leases.

### **293 Amending or replacing plan**

- (1) This section applies if—
- (a) the holder of the environmental authority has given the administering authority a plan of operations (the *original plan*); and
  - (b) the plan period for the plan has not ended.
- (2) The holder may amend or replace the original plan at any time before the plan period ends by giving the administering authority a written notice that—
- (a) states—
    - (i) the amendment of the original plan; or
    - (ii) that the original plan is replaced; and
  - (b) is accompanied by—
    - (i) for a replacement—the replacement plan; and
    - (ii) a compliance statement for the original plan, as amended, or for the replacement plan; and
    - (iii) the fee prescribed by regulation.
- (3) The compliance statement must comply with section 292(2).
- (4) The holder's plan of operations is taken to be the original plan, as amended from time to time by any amendment under this section.
- (5) However, an amendment can not extend the plan period.
- (6) The original plan ceases to apply if it is replaced.
- (7) A replacement plan may apply for a period of no

[s 173]

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more than 5 years after the day the notice of the replacement plan is given under this section.

### **294 Failure to comply with plan of operations**

The environmental authority holder must, when carrying out a petroleum activity under the petroleum lease, comply with the plan of operations.

Maximum penalty—100 penalty units.

### **295 Environmental authority overrides plan**

- (1) This section applies if there is an inconsistency between an environmental authority and a plan of operations.
- (2) The environmental authority prevails to the extent of the inconsistency.
- (3) The holder of the environmental authority must, within 15 business days after the holder becomes aware of the inconsistency, amend the plan to remove the inconsistency.

Maximum penalty—100 penalty units.

## **Part 14                      Matters relating to costs of rehabilitation**

### **Division 1                      Estimated rehabilitation costs for resource activities and ERC decisions**

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## 296 Definitions for division

In this division—

***ERC decision*** means a decision of the administering authority under section 300 about the estimated rehabilitation cost for a resource activity.

***ERC period***, for the estimated rehabilitation cost for a resource activity, means—

- (a) if a PRCP schedule applies for the activity—the period of between 1 and 5 years stated in the application for an ERC decision under section 298(2)(b); or
- (b) if the activity is a petroleum activity that is an ineligible ERA, other than a petroleum activity to which a plan of operations applies, or the activity relates to a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—the period of between 1 and 5 years stated in the ERC decision about the estimated rehabilitation cost; or
- (c) if a plan of operations applies for the activities—the plan period for the plan of operations; or
- (d) otherwise—the total period during which the resource activity is likely to be carried out under the environmental authority for the activity.

***estimated rehabilitation cost***, for a resource activity, see section 300(2).

## 297 Condition about ERC decision

It is a condition of an environmental authority for a resource activity that the holder must not carry out, or allow the carrying out of, a resource activity under the authority unless—

[s 173]

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- (a) an ERC decision is in effect for the resource activity when the activity is carried out; and
- (b) the holder has paid a contribution to the scheme fund or given a surety for the authority under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*; and
- (c) the holder has complied with the requirements under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* for paying a contribution to the scheme fund, or giving a surety for the authority, as required from time to time.

### **298 Applying for ERC decision**

- (1) The holder of an environmental authority for a resource activity may apply to the administering authority for an ERC decision for the resource activity.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state the ERC period to which the application relates; and
  - (c) state the amount the holder considers to be an estimate of the total cost, for the ERC period, of the following, worked out in compliance with the methodology decided by the chief executive—
    - (i) rehabilitating the land on which the resource activity is carried out;
    - (ii) preventing or minimising environmental harm, or rehabilitating or restoring the environment, in relation to the resource activity; and

- (d) include the other information the administering authority reasonably considers necessary to make the ERC decision; and
- (e) include a compliance statement made by or for the holder stating the amount mentioned in paragraph (c) for the ERC period—
  - (i) is worked out in compliance with the methodology mentioned in that paragraph; and
  - (ii) if a PRCP schedule or plan of operations applies for the resource activities—is consistent with the schedule or plan.

### **299 Administering authority may require additional information**

- (1) The administering authority may, within 10 business days after receiving the application, give the holder a written notice asking the holder to provide further information the authority reasonably requires to make the ERC decision.
- (2) The notice must state a period of at least 10 business days within which the information must be given.
- (3) If the holder does not comply with the notice, the administering authority may make the ERC decision without the further information.

### **300 Making ERC decision**

- (1) After receiving the application, the administering authority must decide, for the ERC period, the amount of the estimated cost of—
  - (a) rehabilitating the land on which the resource activity is carried out; and

[s 173]

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- (b) preventing or minimising environmental harm, or rehabilitating or restoring the environment, in relation to the resource activity.
- (2) The amount of the estimated cost decided under subsection (1) is called the *estimated rehabilitation cost* for the resource activity.
- (3) The decision must be made within—
  - (a) the later of—
    - (i) 15 business days after the application is received; or
    - (ii) if a notice under section 299 is given to the holder of the environmental authority—10 business days after the day the further information is received or the holder fails to comply with the notice; or
  - (b) if the holder agrees to a longer period of no more than 20 business days—the longer period.
- (4) In making the decision, the administering authority must have regard to—
  - (a) whether the estimate of the total cost mentioned in section 298(2)(c) has been worked out, for the ERC period, as mentioned in that paragraph; and
  - (b) the guidelines under section 550.
- (5) The ERC decision—
  - (a) takes effect on the day the decision is made; and
  - (b) subject to section 305, remains in effect until the day the ERC period to which the decision relates ends.

### **301 Notice of decision**

- (1) The administering authority must, within 5 business days after making the ERC decision, give an information notice for the decision to—
  - (a) the holder of the environmental authority;  
and
  - (b) the scheme manager.
- (2) The notice must state—
  - (a) the estimated rehabilitation cost for the resource activity; and
  - (b) the period for which the ERC decision is in force.

### **302 Application for new ERC decision before expiry**

- (1) This section applies to the holder of an environmental authority for a resource activity for which an ERC decision is in force.
- (2) The holder must apply, under section 298, for a new ERC decision—
  - (a) for an environmental authority for a petroleum activity to which a plan of operations applies—
    - (i) if the day the holder gives the administering authority a plan of operations to replace the plan of operations that applies to the activity is at least 20 business days before the ERC period to which the decision relates ends—on that day; or
    - (ii) otherwise—at least 20 business days before the ERC period to which the decision relates ends; or

[s 173]

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- (b) otherwise—at least 3 months before the ERC period to which the decision relates ends.

Maximum penalty—100 penalty units.

### **303 Administering authority may direct holder to re-apply for ERC decision**

- (1) This section applies if the administering authority—
  - (a) becomes aware of a change relating to the carrying out of a resource activity by a holder of an environmental authority that may result in an increase in the estimated rehabilitation cost for the activity; or
  - (b) approves an application to amalgamate an environmental authority with another environmental authority under section 247; or
  - (c) de-amalgamates an environmental authority under section 250C.
- (2) The administering authority—
  - (a) may decide to direct the holder or, for a de-amalgamated environmental authority, each of the holders, to re-apply, under section 298 for an ERC decision for the resource activity; and
  - (b) must give the holder, or each of the holders, an information notice for a decision to give a direction under paragraph (a).
- (3) The notice must state a reasonable period within which the holder must comply with the direction.
- (4) The holder must comply with the direction.

Maximum penalty—100 penalty units.

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### **304 When holder must re-apply for ERC decision**

- (1) This section applies in relation to the holder of an environmental authority for a resource activity if—
  - (a) there is an increase in the likely maximum amount of disturbance to the environment as a result of the holder carrying out the resource activity; or
  - (b) there is a change relating to the carrying out of the resource activity that may result in an increase in the estimated rehabilitation cost for the activity; or
  - (c) the holder's annual return given under section 316I states there has been a change to the carrying out of the activity that may affect the estimated rehabilitation cost; or
  - (d) the administering authority approves an application to amalgamate the environmental authority with another environmental authority under section 247; or
  - (e) the administering authority de-amalgamates the environmental authority under section 250C.
- (2) The holder must re-apply, under section 298, for an ERC decision for the resource activity—
  - (a) if subsection (1)(a) or (b) applies—within 10 business days after the holder becomes aware of the increase or change; or
  - (b) if subsection (1)(c) applies—within 10 business days after the holder gives the annual return to the administering authority; or
  - (c) if subsection (1)(d) applies—within 10 business days after the administering

[s 173]

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authority amalgamates the environmental authorities under section 248; or

- (d) if subsection (1)(e) applies—within 10 business days after the administering authority issues the de-amalgamated environmental authorities to the holder.

Maximum penalty—100 penalty units.

### **305 Effect of re-application on ERC decision**

- (1) If an application for an ERC decision is made in compliance with section 302, 303 or 304, and the application has not been decided before the ERC period for the current decision ends, the current decision remains in effect until the day the application is decided.
- (2) The current decision stops having effect for this Act when the ERC decision on the re-application is made.
- (3) In this section—  
*current decision*, for the holder of an environmental authority, means the ERC decision in effect when the holder applies for a decision under section 302, 303 or 304.

### **306 Effect of amalgamation or de-amalgamation of environmental authority on ERC decision**

- (1) This section applies if—
- (a) an ERC decision is in force for a resource activity; and
- (b) the administering authority—
- (i) approves an application to amalgamate the environmental authority for the resource activity with another

- environmental authority under section 247; or
- (ii) de-amalgamates the environmental authority under section 250C.
- (2) For an application mentioned in subsection (1)(b)(i), on the day the application is approved—
- (a) the ERC decision (the *previous ERC decision*) for each of the environmental authorities approved for amalgamation is no longer in force; and
- (b) the administering authority is taken to have made an ERC decision under section 300 for the environmental authority issued because of the amalgamation; and
- (c) the estimated rehabilitation cost for the ERC decision mentioned in paragraph (b) is taken to be the total of the estimated rehabilitation costs under the previous ERC decisions; and
- (d) a contribution to the scheme fund paid, or surety given, under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* for each of the environmental authorities approved for amalgamation is taken to be a contribution to the scheme fund paid, or surety given, under that Act, for the environmental authority issued because of the amalgamation.
- (3) For a de-amalgamated environmental authority mentioned in subsection (1)(b)(ii), on the day the authority is de-amalgamated—
- (a) the ERC decision (also the *previous ERC decision*) for the de-amalgamated environmental authority is no longer in force; and
- (b) the administering authority is taken to have made an ERC decision under section 300 for

[s 173]

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- each of the environmental authorities issued because of the de-amalgamation; and
- (c) the estimated rehabilitation cost for each ERC decision mentioned in paragraph (b) is taken to be the estimated rehabilitation cost under the previous ERC decision divided by the number of environmental authorities issued because of the de-amalgamation; and
  - (d) a contribution to the scheme fund paid, or surety given, under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* for the de-amalgamated environmental authority is taken to be a contribution to the scheme fund paid, or surety given, under that Act, for the environmental authorities issued because of the de-amalgamation.
- (4) An ERC decision mentioned in subsection (2)(b) or (3)(b) remains in force for a relevant activity until the day a new ERC decision is made for the activity.
- (5) The *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 26 does not apply to an ERC decision mentioned in subsection (2)(b) or (3)(b).

## **Division 2            Financial assurance for prescribed ERAs**

### **307 Application of division**

This division applies in relation to an environmental authority for a prescribed ERA.

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### **308 Requirement to give financial assurance for environmental authority**

- (1) The administering authority may impose a condition on an environmental authority that the holder must not carry out, or allow the carrying out of, a relevant activity under the authority unless the holder has paid a financial assurance to the administering authority under this division.
- (2) The condition may require the financial assurance to be given as security for—
  - (a) compliance with the environmental authority; and
  - (b) costs and expenses, or likely costs and expenses, mentioned in section 316C.
- (3) However, the administering authority may impose the condition only if it is satisfied the condition is justified having regard to—
  - (a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the relevant activity; and
  - (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and
  - (c) the environmental record of the holder.
- (4) The administering authority may require a financial assurance to remain in force until it is satisfied no claim is likely to be made on the assurance.

### **309 Application for decision about amount and form of financial assurance**

- (1) This section applies if a condition requiring a holder to give a financial assurance is imposed on

[s 173]

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- an environmental authority.
- (2) The holder may apply to the administering authority for a decision about the amount and form of financial assurance.
  - (3) The application must—
    - (a) be in the approved form; and
    - (b) include the information the administering authority reasonably considers necessary to decide the application.

### **310 Deciding amount and form of financial assurance**

- (1) The administering authority must decide the amount and form of financial assurance required under a condition of an environmental authority.
- (2) The decision must be made within—
  - (a) 10 business days after the application made under section 309 is received by the administering authority; or
  - (b) if a longer period is agreed to by the holder—the longer period.
- (3) In making the decision, the administering authority must have regard to the financial assurance guideline.
- (4) Despite subsections (1) and (3), the administering authority can not require financial assurance of an amount that exceeds the amount representing the total likely costs and expenses that may be incurred in carrying out rehabilitation of, or to restore and protect, the environment because of environmental harm that may be caused by the prescribed ERA.
- (5) In this section—

*costs and expenses* includes costs and expenses

for monitoring and maintenance.

### **311 Notice of decision**

The administering authority must, within 5 business days after making a decision under section 310, give an information notice about the decision to the holder of the environmental authority.

### **312 Application to amend or discharge financial assurance**

- (1) The holder of an environmental authority for which financial assurance has been given may apply to the administering authority to—
  - (a) amend the amount (by decreasing or increasing the amount) or form of the financial assurance; or
  - (b) discharge the financial assurance.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state whether the application relates to—
    - (i) amending the amount or form of financial assurance; or
    - (ii) discharging the financial assurance; and
  - (c) if the application relates to amending the amount or form of financial assurance—include details of the proposed amendment; and
  - (d) include the information the administering authority reasonably considers necessary to decide the application.

[s 173]

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### **313 Administering authority may require compliance statement**

- (1) This section applies to an application under section 312.
- (2) The administering authority may, by written notice given to the applicant, require the applicant to give the administering authority a compliance statement for the financial assurance before deciding the application.
- (3) The compliance statement must—
  - (a) be made by or for the applicant; and
  - (b) state the extent to which activities carried out under the environmental authority to which the application relates have complied with the conditions of the environmental authority; and
  - (c) state whether or not the amount of the financial assurance has been calculated having regard to the financial assurance guideline.

### **314 Deciding application**

- (1) The administering authority must, within the relevant period—
  - (a) approve or refuse an application under section 312; and
  - (b) give the applicant an information notice about the decision.
- (2) If the application relates to amending the amount or form of financial assurance, the authority must have regard to the financial assurance guideline in deciding the application.
- (3) Despite subsection (1), the administering authority may approve an application to discharge

a financial assurance only if the authority is satisfied no claim is likely to be made on the assurance.

- (4) Subsection (5) applies if the application—
- (a) relates to amending or discharging the financial assurance; and
  - (b) the application was made because of a transfer application for the environmental authority for which the financial assurance was given.
- (5) Despite subsection (1), the administering authority may withhold making a decision under that subsection until—
- (a) the transfer application has been approved; and
  - (b) any financial assurance for the environmental authority required to be given by the new holder has been given; and
  - (c) the transfer has taken effect.
- (6) In this section—
- relevant period* means—
- (a) if the applicant is required to give a compliance statement under section 313—20 business days after the statement is received by the administering authority; or
  - (b) otherwise—20 business days after the application is received.

### **315 Power to require a change to financial assurance**

- (1) The administering authority may, at any time, require the holder of an environmental authority for which financial assurance has been given to change the amount of the financial assurance.

[s 173]

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- (2) Before making the requirement, the administering authority must give written notice to the holder.
- (3) The notice must—
  - (a) state the details of the proposed requirement; and
  - (b) invite the holder to make written representations about the proposed requirement within a stated period of at least 20 business days after the day the holder is given the notice.
- (4) The administering authority must, before deciding to make the requirement, consider the representations made by the holder within the stated period.
- (5) The requirement does not take effect until—
  - (a) the day the holder is given an information notice for the decision; or
  - (b) if the information notice states a later day—the later day.
- (6) In this section—

*change*, financial assurance, includes to decrease or increase the amount of the financial assurance.

*financial assurance* includes financial assurance given by a holder that has changed because of a requirement previously made under this section.

### **316 Replenishment of financial assurance**

- (1) This section applies if—
  - (a) under division 3, all or part of the financial assurance for an environmental authority has been realised; and
  - (b) the environmental authority is still in force.
- (2) The administering authority must give the holder

of the environmental authority a notice—

- (a) stating how much of the financial assurance has been used; and
  - (b) directing the holder to, within 20 business days after the giving of the notice, replenish the financial assurance to the amount that was held by the administering authority before the financial assurance started to be realised.
- (3) It is a condition of the environmental authority that the holder must comply with the direction.

## **Division 3      Claiming**

### **316A Definitions for division**

In this division—

*environmental authority* includes a cancelled or surrendered environmental authority.

*EPA assurance* means a financial assurance given under this Act.

*scheme assurance* means a contribution paid to the scheme fund or a surety given under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

### **316B References to EPA assurance or surety**

A reference in this division to making a claim on or realising an EPA assurance or a surety includes a reference to making a claim on or realising a part of the EPA assurance or surety.

[s 173]

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### **316C Application of division**

This division applies if the administering authority incurs, or might reasonably incur, costs and expenses in taking action to—

- (a) prevent or minimise environmental harm, or rehabilitate or restore the environment, in relation to the carrying out of an activity for which an EPA assurance or scheme assurance has been given; or
- (b) secure compliance with an environmental authority or prescribed condition for a small scale mining activity for which an EPA assurance or scheme assurance has been given.

### **316D Administering authority may claim or realise EPA assurance or ask scheme manager for payment**

- (1) If an entity has given an EPA assurance for an activity, the administering authority may recover the reasonable costs and expenses of taking an action under section 316C by making a claim on or realising the financial assurance.
- (2) If an entity has given a scheme assurance, the administering authority may ask the scheme manager for—
  - (a) payment of the costs and expenses from the scheme fund; or
  - (b) if a surety has been given—payment of the costs and expenses by the scheme manager making a claim on or realising the surety.

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### **316E Notice about claiming or realising EPA assurance or asking scheme manager for payment**

- (1) Before making a claim on or realising an EPA assurance, the administering authority must give written notice to the entity who gave the EPA assurance.
- (2) Also, before asking the scheme manager for payment of the costs and expenses under section 316D(2)(b), the administering authority must give written notice to the entity who paid the surety.
- (3) The notice must—
  - (a) state details of the action the administering authority proposes to take; and
  - (b) state the amount of the EPA assurance to be claimed or realised, or amount to be requested from the scheme manager; and
  - (c) for making a claim on or realising an EPA assurance or a surety under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*—invite the entity to make written representations to the administering authority about why the assurance or surety should not be claimed or realised as proposed; and
  - (d) state the period within which the representations must be made.
- (4) The stated period must end at least 20 business days after the entity is given the notice.

### **316F Considering representations**

The administering authority must consider any written representations made within the stated period by the entity.

[s 173]

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### **316G Decision**

- (1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on, or realise, the EPA assurance, or to ask for payment of the costs and expenses mentioned in section 316D(2)(b).
- (2) If the administering authority decides to act as mentioned in subsection (1), it must, within 5 business days after making the decision, give the entity an information notice about the decision.
- (3) If the administering authority decides to ask for payment of the costs and expenses mentioned in section 316D(2)(a), it must, within 5 business days after asking for the payment, give the entity an information notice about the decision.

## **Part 15            General provisions**

### **Division 1            Requirement for holders of PRC plan**

#### **316H Obligation to give amended rehabilitation planning part to administering authority**

- (1) This section applies if a PRCP schedule is amended under this chapter or section 318ZJA.
- (2) Within the relevant period, the holder must—
  - (a) review the rehabilitation planning part of the holder's PRC plan and make the necessary or appropriate amendments as a result of the amendment of the PRCP schedule; and
  - (b) give a copy of the amended rehabilitation planning part to the administering authority.

Maximum penalty—100 penalty units.

- (3) The administering authority must include the amended rehabilitation planning part of the plan on the relevant register.
- (4) In this section—  
***relevant period***, for an amendment of a PRCP schedule, means—
  - (a) 10 business days after the holder receives—
    - (i) for an amendment under section 211— a written notice of the amendment under section 211(b); or
    - (ii) for another amendment—a copy of the amended PRCP schedule; or
  - (b) if the administering authority agrees to a longer period—the longer period.

## **Division 2      Annual notices, fees and returns**

### **316I Annual fee**

- (1) This section applies to the holder of an environmental authority for which an annual fee is prescribed by regulation.
- (2) At least 20 business days before each anniversary day for the environmental authority, the administering authority must give the holder a written notice complying with subsection (3) (an ***annual notice***).
- (3) An annual notice must state—
  - (a) that the holder must pay the administering authority the appropriate annual fee, other than in a circumstance prescribed by regulation; and

[s 173]

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- (b) that the annual fee payable under the notice must be paid to the administering authority within a stated reasonable time, of at least 20 business days, after the day the notice is given; and
- (c) that, if the holder does not comply with the notice, the environmental authority may be cancelled or suspended.

*Note—*

See section 278 in relation to cancellation or suspension of an environmental authority.

- (4) If the holder does not pay the annual fee within the time stated for payment in the annual notice, the administering authority may recover the annual fee as a debt.
- (5) A failure to give the notice by the time stated in subsection (2) does not invalidate or otherwise affect the validity of the notice.

### **316IA Annual returns**

- (1) This section applies to the holder of an environmental authority if the administering authority directs the holder, by written notice, to give an annual return for a stated period.
- (2) Unless the holder has a reasonable excuse, the holder must give the administering authority an annual return—
  - (a) in the approved form; and
  - (b) on or before—
    - (i) the day prescribed by regulation; or
    - (ii) if no day is prescribed—1 March immediately following the year to which the annual return relates.

Maximum penalty—100 penalty units.

- (3) If the environmental authority relates to a resource activity, the annual return must state whether there has been a change to the carrying out of the resource activity that may affect the ERC decision for the activity.

### **316J Particular requirement for annual returns for PRCP schedule holders**

- (1) This section applies to the holder of a PRCP schedule who is given a direction under section 316IA(1).
- (2) The holder's annual return must include an evaluation of the effectiveness of—
  - (a) the actions taken in relation to each rehabilitation milestone or management milestone under the schedule; and
  - (b) the environmental management carried out under the schedule.
- (3) Without limiting subsection (2), the evaluation must state—
  - (a) whether any rehabilitation milestones or management milestones to be completed under the PRCP schedule during the year have been met; and
  - (b) whether the holder has complied with the conditions imposed on the PRCP schedule.

### **316K Particular requirement for annual return for CSG environmental authority**

- (1) This section applies to the holder of an environmental authority for a CSG activity if the activity is an ineligible ERA.
- (2) The annual return must include an evaluation of the effectiveness of the management of CSG

[s 173]

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water under the criteria mentioned in section 126(1)(e) for carrying out each relevant CSG activity.

- (3) Without limiting subsection (2), the evaluation must state—
  - (a) whether the CSG water has been effectively managed having regard to the criteria; and
  - (b) if the water has not been effectively managed—
    - (i) the action that will be taken to ensure the water will in the future be effectively managed having regard to the criteria; and
    - (ii) when the action will be taken.

## **Division 3      Changing anniversary day**

### **316L Changing anniversary day**

- (1) The administering authority may change the anniversary day, for an environmental authority for which an annual fee is prescribed by regulation, to another day (the *new day*) if the holder of the environmental authority—
  - (a) agrees in writing to the change; or
  - (b) applies to the administering authority to change the anniversary day to a new day.
- (2) The application must be in the approved form and be accompanied by the fee prescribed by regulation.

### **316M Deciding application**

The administering authority must, within 20 business days after the application is made, decide

whether to change the anniversary day to the new day.

### **316N Notice of decision**

The administering authority must, within 10 business days after the decision is made, give the holder—

- (a) if the decision is to change the day—written notice of the decision; or
- (b) if the decision is not to change the day—an information notice for the decision.

### **316O When decision takes effect**

A decision to change the anniversary day takes effect on the later of the following days—

- (a) the day the holder is given notice of the decision;
- (b) a later day of effect stated in the notice.

## **Division 4            Non-compliance with                                  eligibility criteria**

### **316P Requirement to replace environmental                                  authority if non-compliance with eligibility                                  criteria**

- (1) This section applies if—
  - (a) an environmental authority is issued for a standard or variation application under part 5; and
  - (b) the relevant activity for the authority does not comply with the eligibility criteria for the activity.

[s 173]

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- (2) The administering authority may require the holder of the environmental authority to—
  - (a) make a site-specific application for a new environmental authority under part 2 to replace the environmental authority; or
  - (b) make an amendment application for the environmental authority under part 7.
- (3) Before making a requirement under subsection (2), the administering authority must give written notice of the proposed requirement to the holder of the environmental authority.
- (4) The notice must state the following—
  - (a) the grounds for the requirement;
  - (b) the facts and circumstances that are the basis for the grounds;
  - (c) that the holder may, within a stated period of at least 20 business days, make written representations to show why the requirement should not be made.
- (5) The administering authority must, before deciding to make the requirement, consider the representations made by the holder within the stated period.
- (6) The requirement does not take effect until—
  - (a) the holder is given an information notice about the decision; or
  - (b) if the information notice states a later day the requirement takes effect—the later day.
- (7) The holder of the authority must comply with a requirement under subsection (2).

Maximum penalty for subsection (7)—4,500 penalty units.

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## Division 4A Public interest evaluations

### 316PA Public interest evaluations

- (1) The purpose of a public interest evaluation of a proposed non-use management area identified in a proposed PRCP schedule is to provide a recommendation about whether the approval of the area as a non-use management area is in the public interest.

*Note—*

See sections 49(5A) and (5B) and 136A for when a public interest evaluation must be carried out.

- (2) A public interest evaluation for a proposed PRCP schedule must include a consideration of the following matters—
  - (a) the benefit, including the significance of the benefit, to the community resulting from the mining activity or resource project the subject of the environmental authority application to which the PRCP schedule relates;
  - (b) any impacts, including long-term impacts for the environment or the community, that may reduce the benefit mentioned in paragraph (a) or have other negative impacts on the environment or community;
  - (c) whether there are any alternative options to approving the area as a non-use management area having regard to—
    - (i) the costs or other consequences of the alternative options; and
    - (ii) the impact of the costs or other consequences on the financial viability of the mining activity or resource project;

[s 173]

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- (d) whether the benefit to the community mentioned in paragraph (a), weighed against the impacts mentioned in paragraph (b), is likely to justify the approval of the non-use management area having regard to any alternative options mentioned in paragraph (c);
  - (e) another matter prescribed by regulation.
- (3) Each matter mentioned in subsection (2) is a **public interest consideration**.
- (4) A regulation may prescribe the following in relation to the carrying out of a public interest evaluation—
- (a) how the evaluation must be carried out;
  - (b) the matters to be considered in evaluating each public interest consideration.

### **316PB Requirements for report about particular public interest evaluations**

- (1) This section applies in relation to a report about a public interest evaluation for land the subject of—
- (a) a proposed PRCP schedule included with an EIS mentioned in section 49(5A); or
  - (b) a site-specific application mentioned in section 136A(1)(b).
- (2) The qualified entity who gives the report must, before giving the report to the administering authority, give the proponent for the EIS or applicant for the application—
- (a) a copy of the proposed report; and
  - (b) a notice stating that the proponent or applicant may, within 20 business days after the notice is given, make submissions to the qualified entity about the proposed report.

- (3) Before finalising the report, the qualified entity must consider any submissions properly made by the proponent or applicant within the period stated in the notice under subsection (2)(b).
- (4) The report given to the chief executive must include—
  - (a) a recommendation about whether it is in the public interest to approve the non-use management area; and
  - (b) the reasons for the recommendation; and
  - (c) a response to, or statement about how the qualified entity has considered, any properly made submissions by the proponent or applicant; and
  - (d) another matter prescribed by regulation.
- (5) The administering authority must, within 5 business days after receiving the report—
  - (a) publish the report on the register kept under section 540; and
  - (b) notify the following entities that the report has been received—
    - (i) for a report mentioned in subsection (1)(a)—the proponent for the EIS;
    - (ii) for a report mentioned in subsection (1)(b)—the applicant;
    - (iii) each entity who made a submission to the chief executive about the EIS under section 54 or the administering authority about the application under section 160.

### **316PC Review of report**

- (1) This section applies if—

[s 173]

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- (a) an entity is notified under section 316PB(5)(b) that a report (the *original report*) has been received; and
- (b) the entity—
  - (i) has justifiable doubts about the impartiality or independence of the qualified entity who gave the original report; or
  - (ii) reasonably believes the qualified entity has made a substantive error in carrying out the public interest evaluation that affects a recommendation made in the original report.
- (2) The entity may, within 15 business days after being notified about the original report, ask the chief executive to arrange for another qualified entity to review the original report.
- (3) If the chief executive receives a request under subsection (2), the chief executive must ask another entity (the *reviewing entity*) to review the original report.
- (4) The reviewing entity must be—
  - (a) an entity that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation; and
  - (b) if the original report is—
    - (i) a report mentioned in section 316PB(1)(a)—an entity other than the proponent for the EIS; or
    - (ii) a report mentioned in section 316PB(1)(b)—an entity other than the applicant.
- (5) After reviewing the original report, the reviewing

- entity must, within 6 months after the chief executive makes the request under subsection (3)—
- (a) decide to—
    - (i) confirm each recommendation made in the original report; or
    - (ii) substitute 1 or more recommendations made in the original report; and
  - (b) give written notice of the decision to—
    - (i) the chief executive; and
    - (ii) the entity who asked for the review under subsection (2).
- (6) The written notice must include reasons for the reviewing entity's decision under subsection (5)(a).
- (7) The chief executive must, within 5 business days after receiving the notice—
- (a) ensure the administering authority notes the decision on the register kept under section 540; and
  - (b) notify the following entities about the reviewing entity's decision—
    - (i) for a report mentioned in section 316PB(1)(a)—the proponent for the EIS;
    - (ii) for a report mentioned in section 316PB(1)(b)—the applicant;
    - (iii) each entity who made a submission to the chief executive about the EIS under section 54 or the administering authority about the application under section 160.

[s 173]

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### **316PD Costs of public interest evaluations and reviews**

- (1) The costs reasonably incurred by the administering authority in obtaining a report about a public interest evaluation are a debt payable by the applicant to the administering authority.
- (2) The costs reasonably incurred by the chief executive in asking a reviewing entity to review a report about a public interest evaluation under section 316PC are a debt payable by the following entity to the State—
  - (a) if an entity other than the applicant or proponent requested the review and all recommendations made in the report are confirmed under section 316PC(5)(a)(i)—the entity;
  - (b) otherwise—the proponent or applicant.

### **316PE Confidentiality of public interest evaluation**

- (1) This section applies to a person who—
  - (a) is, or has been, any of the following persons performing functions under this Act for a public interest evaluation—
    - (i) the chief executive;
    - (ii) a public service employee of the department;
    - (iii) a qualified entity under section 49(8) or 136A(3) or a reviewing entity under section 316PC(3); and
  - (b) in that capacity, acquires confidential information.
- (2) The person must not disclose the confidential information or give access to the confidential

information to anyone else.

Maximum penalty—100 penalty units.

- (3) However, subsection (2) does not apply if the disclosure of, or the giving of access to, the confidential information—
- (a) is with the consent of the person to whom the information relates; or
  - (b) is only to the extent the disclosure or access is necessary to perform the person's function under this Act in relation to the public interest evaluation; or
  - (c) is permitted or required under an Act or law.
- (4) In this section—

*confidential information* means information about a person's commercial, business or financial affairs, other than—

- (a) statistical or other information that could not reasonably be expected to result in the identification of the person to whom it relates; or
- (b) information that is publicly available.

## **Division 5      Miscellaneous provisions**

### **316Q Administering authority may seek advice, comment or information about application**

- (1) The administering authority may ask any entity for advice, comment or information about an application, or a proposed PRC plan accompanying the application, made under this chapter at any time.
- (2) There is no particular way the advice, comment or information may be asked for and received and

[s 174]

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the request may be by public notice.

### **316R Decision criteria are not exhaustive**

- (1) This section applies if—
  - (a) an entity is deciding, or is required to decide, an application under this chapter; and
  - (b) a provision of this chapter requires the entity, in making the decision, to consider stated criteria or matters.
- (2) The stated criteria or matters do not limit the criteria or matters the entity may consider in making the decision.

### **174 Amendment of s 318Z (What is *progressive certification*)**

Section 318Z(1)(c)—

*omit, insert—*

- (c) a PRCP schedule applying to the activities carried out under the environmental authority; and
- (d) a relevant guideline or other document made under this Act.

### **175 Amendment of s 318ZB (Continuing responsibility of environmental authority holder relating to certified rehabilitated area)**

- (1) Section 318ZB, heading, ‘environmental authority’—

*omit.*

- (2) Section 318ZB(2), after ‘of the authority’—

*insert—*

, or rehabilitation milestones or management milestones under a PRCP schedule,

- 
- (3) Section 318ZB(3), from ‘authority’ to ‘existing conditions’—  
*omit, insert—*

authority, or rehabilitation milestones or management milestones under the schedule, is of no effect to the extent it purports to impose a more stringent obligation for the certified rehabilitated area than an obligation applying under the existing conditions or milestones

- (4) Section 318ZB(4)(b), after ‘authority’—  
*insert—*

or PRCP schedule

**176 Amendment of s 318ZD (Requirements for progressive certification application)**

- (1) Section 318ZD(1)(c)(i), after ‘for the environmental authority’—

*insert—*

, and any PRCP schedule relating to the environmental authority,

- (2) Section 318ZD(2)(b)(i), after ‘conditions of the environmental authority’—

*insert—*

and any PRCP schedule relating to the authority

**177 Amendment of s 318ZF (Requirements for progressive rehabilitation report)**

Section 318ZF(1)(a)—

*omit, insert—*

- (a) contain the information required under each of the following sections, as if a reference in the section to land were a reference to the proposed certified rehabilitated area—

[s 178]

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- (i) if a PRCP schedule applies for the relevant activities carried out in the proposed certified rehabilitated area—section 264A;
- (ii) otherwise—section 264; and

### **178 Amendment of s 318ZI (Criteria for decision)**

(1) Section 318ZI(1)(b)(iv) and (v)—

*omit, insert—*

- (iv) if a PRCP schedule applies for the proposed certified rehabilitated area—the PRC plan;
- (v) further information received in response to a request under section 318ZG(1);
- (vi) the matters prescribed under an environmental protection policy or by regulation.

(2) Section 318ZI(2)(c)—

*omit, insert—*

- (c) if a PRCP schedule applies for the proposed certified rehabilitated area—it is satisfied the schedule has been complied with in relation to the area; or
- (d) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied with the circumstance.

### **179 Amendment of s 318ZJ (Steps after making decision)**

Section 318ZJ(1)(a)(i) and (ii)—

*omit, insert—*

- (i) record particulars of the certification in the relevant register for the environmental authority; and
- (ii) if a PRCP schedule applies for relevant activities carried out in the certified rehabilitated area—record particulars of the certification in the relevant register for the schedule; and
- (iii) give written notice of the decision to the applicant; or

## **180 Insertion of new s 318ZJA**

Chapter 5A, part 6, division 1, subdivision 5—

*insert—*

### **318ZJA Administering authority may amend PRCP schedule**

- (1) This section applies if—
  - (a) the administering authority decides to give the progressive certification; and
  - (b) a PRCP schedule applies for relevant activities carried out on the certified rehabilitation area; and
  - (c) an amendment of the schedule is required because of the progressive certification.
- (2) The administering authority may amend the PRCP schedule to the extent necessary because of the progressive certification.
- (3) The administering authority must—
  - (a) give a copy of the amended PRCP schedule to the holder; and
  - (b) give an information notice about the amendment to the holder; and

[s 181]

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- (c) record the amendment in the relevant register.

**181 Amendment of s 320A (Application of div 2)**

- (1) Section 320A(2)(a)(ii), ‘and’—

*omit, insert—*

or

- (2) Section 320A(2)(a)—

*insert—*

- (iii) a rehabilitation auditor conducting an audit of a PRCP schedule under chapter 5, part 12; and

- (3) Section 320A(4)—

*insert—*

- (da) a PRCP schedule; or

- (4) Section 320A(4)(da) to (h)—

*renumber* as section 320A(4)(e) to (i).

**182 Amendment of s 320B (Duty of particular employees to notify employer)**

Section 320B(2), after ‘activity as’—

*insert—*

a rehabilitation auditor performing functions for an audit of a PRCP schedule or

**183 Amendment of s 322 (Administering authority may require environmental audit about environmental authority)**

- (1) Section 322, heading, after ‘environmental authority’—

*insert—*

**or PRCP schedule**

- (2) Section 322(1), ‘environmental authority to’—  
*omit, insert—*  
environmental authority or PRCP schedule to

**184 Amendment of s 324 (Content of audit notice)**

- Section 324(1)(b), after ‘authority’—  
*insert—*  
or PRCP schedule

**185 Amendment of s 326 (Administering authority may conduct environmental audit for resource activities)**

- Section 326(1)(a), after ‘authority’—  
*insert—*  
or PRCP schedule

**186 Amendment of s 326A (Administering authority’s costs of environmental audit or report)**

- Section 326A(2), after ‘environmental authority’—  
*insert—*  
or PRCP schedule

**187 Amendment of s 326H (Action following acceptance of report)**

- (1) Section 326H(1)(a), ‘require’—  
*omit, insert—*  
for a report other than a report for an activity to  
which a PRCP schedule applies—require
- (2) Section 326H(1)(b), after ‘authority’—

[s 188]

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*insert—*

or PRCP schedule

**188 Amendment of s 330 (What is a transitional environmental program)**

Section 330(2)—

*omit, insert—*

- (2) However, a transitional environmental program must not be used to achieve compliance with—
- (a) an enforceable undertaking; or
  - (b) a PRCP schedule.

**189 Amendment of s 358 (When order may be issued)**

- (1) Section 358(d)(vii) to (xi)—

*renumber* as section 358(d)(viii) to (xii).

- (2) Section 358(d)—

*insert—*

(vii) a PRCP schedule; or

**190 Insertion of new ch 8, pt 2, div 1A**

Chapter 8, part 2—

*insert—*

**Division 1A PRC plans**

**431A PRCP schedule required for particular environmentally relevant activities**

The holder of an environmental authority issued for a site-specific application for mining activities relating to a mining lease must not carry out, or allow the carrying out of, an environmentally

relevant activity under the authority unless there is a PRCP schedule for the activity.

Maximum penalty—4,500 penalty units.

#### **431B Contravention of condition of PRCP schedule**

- (1) This section applies to a person who is the holder of, or is acting under, a PRCP schedule.
- (2) The person must not wilfully contravene a condition of the PRCP schedule.

Maximum penalty—6,250 penalty units or 5 years imprisonment.

- (3) The person must not contravene a condition of the PRCP schedule.

Maximum penalty—4,500 penalty units.

- (4) In a proceeding for an offence against subsection (2), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the offence against subsection (3).

#### **431C Holder of PRCP schedule responsible for ensuring conditions of PRCP schedule complied with**

- (1) The holder of a PRCP schedule must ensure everyone acting under the schedule complies with the conditions of the schedule.
- (2) If another person acting under the schedule commits an offence against section 431B, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions.

Maximum penalty—the penalty under section

[s 191]

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431B(2) or (3) for the contravention of the conditions.

- (3) Evidence that the other person has been convicted of an offence against section 431B(2) or (3) while acting under the schedule is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions of the schedule.
- (4) However, it is a defence for the holder to prove—
  - (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions of the schedule; and
  - (b) the offence was committed without the holder's knowledge; and
  - (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence.

**191 Amendment of s 452 (Entry of place—general)**

Section 452(1)(d) and (2)(a), after 'authority'—

*insert—*

or PRCP schedule

**192 Amendment of s 458 (Order to enter land to conduct investigation or conduct work)**

- (1) Section 458(1)(a)(i), after 'authority,'—

*insert—*

PRCP schedule,

- (2) Section 458(1)(a)(iii)(A)—

*omit, insert—*

- (A) an accredited ERMP, environmental authority, PRCP schedule, transitional environmental program, site management plan or any conditions of the authority, schedule, program or plan; or
- (3) Section 458(2)(c)(ii)—  
*omit, insert—*
- (ii) the holder of the PRCP schedule; or
- (iii) the transitional environmental program approval holder; and

**193 Amendment of s 493A (When environmental harm or related acts are unlawful)**

Section 493A(2)(d), after ‘authority’—

*insert—*

or PRCP schedule

**194 Amendment of s 520 (Dissatisfied person)**

(1) Section 520(1)(c), after ‘authority’—

*insert—*

or proposed PRC plan accompanying the application

(2) Section 520(1)(d)—

*omit, insert—*

(d) if the decision is about an environmental authority, including financial assurance for the environmental authority, or a PRCP schedule—the holder of the authority or schedule; or

(3) Section 520(1)—

*insert—*

[s 195]

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- (fa) if the decision is about taking action after receiving an audit report for an audit of a PRCP schedule—the holder of the schedule; or

## **195 Replacement of s 522B (Stay of decision to issue environmental protection order)**

Section 522B—

*omit, insert—*

### **522B Stay of particular decisions if unacceptable risk of environmental harm**

- (1) This section applies to an application under section 522 for a stay of a decision—
  - (a) to ask the scheme manager for a payment of costs and expenses under section 316G; or
  - (b) to make a claim on or realise an EPA assurance under section 316G; or
  - (c) to issue an environmental protection order under section 358; or
- (2) The Land Court or the Court must refuse the application if satisfied there would be an unacceptable risk of serious or material environmental harm if the stay were granted.

### **522C Effect of stay of ERC decision**

- (1) This section applies if an ERC decision is stayed.
- (2) Despite the stay the decision remains in effect for section 297 and the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.
- (3) However, if the holder of the environmental authority in relation to which the ERC decision has been made is required to give a surety under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, the holder is only

required, during the period of the stay, to give a surety of 75% of the amount required.

**196 Amendment of s 523 (Review decisions subject to Land Court appeal)**

Section 523, after ‘makes’—

*insert—*

a review decision for

**197 Amendment of s 524 (Right of appeal)**

Section 524, after ‘with the’—

*insert—*

review

**198 Amendment of s 525 (Appeal period)**

Section 525(1), ‘the decision’—

*omit, insert—*

the review decision

**199 Insertion of new s 529**

After section 528—

*insert—*

**529 Effect of stay on particular decisions**

If a review decision relating to an ERC decision is stayed, the decision remains in effect for section 297.

**200 Amendment of s 530 (Decision for appeals)**

Section 530(1)(a), ‘the decision’—

[s 201]

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*omit, insert—*

the review decision

**201 Amendment of s 540 (Registers to be kept by administering authority)**

(1) Section 540(1)(a)—

*omit, insert—*

- (a) for chapter 5, the following—
  - (i) environmental authorities;
  - (ii) surrendered environmental authorities;
  - (iii) suspended or cancelled environmental authorities;
  - (iv) PRC plans;
  - (v) audit reports of PRCP schedules;
  - (vi) PRCP schedules that are no longer in effect because the environmental authority for carrying out activities on land to which the schedule relates has been cancelled or surrendered;
  - (vii) submitted plans of operations;
  - (viii) ERC decisions for environmental authorities;
  - (ix) annual returns required under section 316IA(2) and any evaluation required under section 316J or 316K;
  - (x) information notices given in relation to the amount and form of financial assurance;
  - (xi) notices given under section 314(1)(b) or 315(5);
  - (xii) reports about public interest evaluations, other than any confidential

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information within the meaning of section 316PE;

- (2) Section 540(1)(aa), after ‘environmental authority’—

*insert—*

or amendment of an environmental authority

- (3) Section 540(1)—

*insert—*

(ab) application documents for a proposed PRC plan or an amendment of a PRCP schedule, including information requests and responses to information requests;

## **202 Insertion of new s 550**

Chapter 12, part 1—

*insert—*

### **550 Chief executive may make guidelines for particular matters under ch 5**

- (1) The chief executive may make guidelines to provide guidance to persons about matters relating to—
- (a) the information required under section 126C(1)(j), 286(d), 298(2)(d), 309(3)(b) or 312(2)(d); or
  - (b) the methodology mentioned in section 298(2)(c).
- (2) The guidelines may be amended or replaced by a later guideline made under this section.

## **203 Insertion of new ch 13, pt 27**

Chapter 13—

*insert—*

## Part 27                      Transitional provisions for Mineral and Energy Resources (Financial Provisioning) Act 2018

### 750 Definitions for part

In this part—

***amended Act*** means this Act as in force after the commencement.

***amending Act*** means the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

***assent date*** means the date of assent of the amending Act.

***environmental authority*** includes a suspended environmental authority.

***land outcome document***, for land, means the following documents relating to the land—

- (a) an environmental authority for a resource activity on the land;
- (b) a document made under a condition of an environmental authority mentioned in paragraph (a), if—
  - (i) the document relates to the management of a void within the meaning of section 126D on the land, or the rehabilitation of the land; and
  - (ii) the document was received by the administering authority before the assent date; and
  - (iii) the administering authority has not, within 20 business days after the assent date, given notice to the holder of the environmental authority that the

- document is insufficient in a material particular relevant to a matter mentioned in subparagraph (i); and
- (iv) before the assent date, the document had not been superseded;
- (c) a document made under a condition of an environmental authority mentioned in paragraph (a), if—
- (i) the document relates to the management of a void within the meaning of section 126D on the land, or the rehabilitation of the land; and
- (ii) the environmental authority requires the document to be given to the administering authority on a stated day that is on or after the assent date, or does not state a day when the document must be given; and
- (iii) the document is received by the administering authority within 3 years after the assent date; and
- (iv) the administering authority does not, within 20 business days after receiving the document, give the holder of the environmental authority notice that the document is insufficient in a material particular relevant to a matter mentioned in subparagraph (i);
- (d) a report evaluating an EIS under the *State Development and Public Works Organisation Act 1971*, section 34D;
- (e) an EIS assessment report;
- (f) a written agreement between the holder of an environmental authority mentioned in paragraph (a) and the State that is in force on the assent date.

[s 203]

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***mining EA applicant*** means an applicant for a site-specific application for a mining activity relating to a mining lease, if the application is made on or before the PRCP start date.

***mining EA holder*** means—

- (a) a person who, on the commencement, is the holder of an environmental authority for a mining activity relating to a mining lease, if a relevant activity for the authority is an ineligible ERA; or
- (b) a person who becomes the holder of an environmental authority for a mining activity authorised under a mining lease, if the holder was, before the authority is issued, the mining EA applicant for the authority.

***PRCP start date*** means the day, prescribed by regulation for this definition, that is no later than 1 November 2019.

***pre-amended Act*** means this Act as in force before the commencement.

## **751 Pre-amended Act applies to mining EA applicants**

- (1) This section applies in relation to a mining EA applicant.
- (2) The pre-amended Act, chapter 5, parts 1 to 5, applies to the mining EA applicant's site-specific application as if the amending Act had not commenced.
- (3) If an environmental authority is issued to the mining EA applicant for the application, the amended Act applies in relation to the environmental authority on and from the day the authority is issued.

- (4) However, section 431A does not apply in relation to the environmental authority until the earlier of the following days—
  - (a) the day the applicant fails to comply with a notice given to the applicant under section 754;
  - (b) the day a PRCP schedule for the environmental authority is approved.

### **752 Existing plan of operations for petroleum lease**

- (1) This section applies to a plan of operations for an environmental authority for petroleum activities relating to a petroleum lease, if the plan was given to the administering authority before the commencement.
- (2) On the commencement, the plan of operations continues as a plan of operations under section 291.
- (3) However, if the plan period stated in the plan ends more than 3 years after the commencement, the plan period is taken to end on the day that is 3 years after the commencement.

### **753 Plan of operations for mining lease**

- (1) This section applies if—
  - (a) a mining EA holder gave a plan of operations to the administering authority for a mining lease under the pre-amended Act; and
  - (b) on the commencement, the plan period for the plan under the pre-amended Act, section 288(1)(b) has not ended.
- (2) The plan of operations continues as a plan of

[s 203]

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operations under the pre-amended Act, and the pre-amended Act, sections 289, 290 and 291 continue to apply in relation to the plan of operations, until the earliest of the following days—

- (a) the day the plan period for the plan of operations ends;
- (b) the day a PRCP schedule is approved for the holder for the mining lease;
- (c) if the holder of the mining lease re-applies for an ERC decision under the amended Act, section 304—the day the ERC decision for the application is made.

(2A) However, from the commencement, the holder may not, under the pre-amended Act, section 289—

- (a) replace the plan; or
- (b) amend the plan in a way that increases the total area of land the subject of a rehabilitation program mentioned in the pre-amended Act, section 288(1)(c)(iii).

(3) If the plan of operations ends before the day a PRCP schedule is approved for the holder's mining lease, section 431A does not apply to the holder until the earlier of the following days—

- (a) the day the holder fails to give a proposed PRC plan in compliance with a notice given to the holder under section 754;
- (b) the day a PRCP schedule is approved for the holder.

(4) However, subsection (5) applies if—

- (a) the holder fails to comply with the notice given to the holder under section 754 because the holder purported to give the

- administering authority a proposed PRC plan in compliance with the notice; and
- (b) the administering authority gives the holder written notice for a decision to refuse to approve the proposed PRCP schedule.
- (5) Section 431A does not apply to the holder until—
- (a) if the holder re-applies for approval of another proposed PRCP schedule within 40 business days after the written notice is given—the day the administering authority—
    - (i) issues a PRCP schedule under section 195; or
    - (ii) gives the holder written notice refusing to approve the other PRCP schedule; or
  - (b) otherwise—40 business days after the written notice mentioned in subsection (4)(b) is given.

### **754 Requirement for mining EA holders to give proposed PRC plan**

- (1) The administering authority must, within the period stated in subsection (2), give each mining EA holder a notice stating—
  - (a) the holder must give the administering authority a proposed PRC plan that complies with sections 126C and 126D for the relevant activities the subject of the holder's environmental authority; and
  - (b) the period, of not less than 6 months from the day the notice is given, within which the holder must comply with the notice.
- (2) The notice must be given within the period—
  - (a) starting on the PRCP start date; and

[s 203]

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- (b) ending on the day that is 3 years after the PRCP start date.
- (3) The holder is not required to comply with a requirement under section 126C(1)(g) or (h) or 126D(2) or (3) for the proposed PRCP schedule for the plan in relation to land if—
  - (a) an outcome for the land has been identified under a land outcome document; and
  - (b) the outcome for the land is the same as, or substantially similar to, the outcome for the land if it were a non-use management area under a PRCP schedule.

*Example of an outcome for land—*

A residual void or pit authorised under an environmental authority may constitute the outcome for the land on which the void or pit is located, even though the environmental authority or any other land outcome document does not expressly state anything about the outcome for the land, other than authorising the void or pit.

- (4) However, if the environmental authority or any other land outcome document does not state sufficient detail to identify either the location or area of the land to which the outcome relates, the proposed PRC plan must state—
  - (a) if the area is not identified—how the total area of the land to which the outcome relates will be minimised; and
  - (b) if the location is not identified—how the mining EA holder will ensure the location of the land to which the outcome relates minimises risks to the environment.
- (5) For subsections (3) and (4), if there is an inconsistency in land outcome documents for land, the document appearing first in the list mentioned in section 750, definition *land outcome document* prevails to the extent of the

inconsistency.

- (6) The administering authority must keep a register of an extract of a written agreement mentioned in section 750, definition *land outcome document*, paragraph (f) that identifies the location or area of land mentioned in subsection (4).
- (7) Sections 541, 542 and 543 apply in relation to a register mentioned in subsection (6).
- (8) Subsection (9) applies in relation to a proposed PRC plan required under a notice mentioned in subsection (1).
- (9) A regulation may prescribe exceptional circumstances, in addition to a matter mentioned in section 126D(5), in which land the subject of the PRC plan that is not being mined is taken not to be available for rehabilitation for section 126D(4).

### **755 Administering authority must assess proposed PRC plan**

- (1) The administering authority must assess a proposed PRC plan given to the authority in compliance with a notice given under section 754.
- (2) The assessment process under chapter 5, parts 2 to 5 of the amended Act apply in relation to the proposed PRC plan as if the PRC plan accompanied an application for an environmental authority for a relevant activity made under section 125(1)(n).
- (3) However, for applying the assessment process under subsection (2)—
  - (a) the periods mentioned in sections 144(a)(ii), 168(1)(b) and 194(2)(a)(ii) are taken to apply to the administering authority for the assessment process; and

[s 203]

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- (b) the submission period mentioned in section 154 is taken to be the period, of at least 20 business days after the giving and publishing of the application notice for the PRC plan under section 152, decided by the administering authority; and
  - (c) the application stage and notification stage apply subject to sections 755A and 755B.
- (4) If a requirement for the proposed PRCP schedule does not apply to the holder under section 754(3), section 176A(3) does not apply in relation to the administering authority in deciding whether to approve the schedule to the extent the requirement does not apply to the holder.
- (6) In addition to the matters the administering authority must consider in deciding whether to approve the PRCP schedule for the proposed PRC plan under sections 176A and 194B, the authority must also have regard to—
- (a) each land outcome document for land to which the proposed PRC plan relates; and
  - (b) to the extent possible, the matters the administering authority would have had regard to if the proposed PRC plan had accompanied an application for the holder's environmental authority.

### **755A Application of requirement for public interest evaluation for application stage**

- (1) Section 136A does not apply for the assessment of a proposed PRC plan under section 755(2), unless—
- (a) the PRCP schedule for the proposed PRC plan identifies a non-use management area under section 126D(2)(b); and

- (b) the holder is required to comply with a requirement under section 126C(1)(g) or (h) or 126D(2) or (3) for the proposed PRCP schedule in relation to land because section 754(3) does not apply for the area.
- (2) Subsection (3) applies if—
  - (a) a public interest evaluation is required for the assessment of the proposed PRC plan; and
  - (b) the qualified entity carrying out the evaluation considers an alternative option to approving the area as a non-use management area under section 316PA(2)(c); and
  - (c) the financial viability of the mining activity or resource project would be jeopardised if the alternative option were implemented.
- (3) The report for the public interest evaluation under section 136A(2) must include a consideration of the stage of, and the land outcome documents relating to, the mining activity or resource project.

### **755B Application of notification stage**

- (1) This section applies if either of the following matters is satisfied in relation to land the subject of a proposed PRCP schedule—
  - (a) the outcome for land under a land outcome document is the same as, or substantially similar to, the post-mining land use or non-use management area stated for the area under the proposed PRCP schedule; or
  - (b) for an area of land stated in a land outcome document that could be a proposed non-use management area under the PRCP schedule—the schedule proposes a

[s 203]

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post-mining land use for all or part of the land.

*Example of an outcome for land—*

A residual void or pit authorised under an environmental authority may constitute the outcome for the land on which the void or pit is located, even though the environmental authority or any other land outcome document does not expressly state anything about the outcome for the land, other than authorising the void or pit.

- (2) The notification stage under chapter 5, part 4 does not apply for the assessment of the proposed PRCP schedule under section 755(2), to the extent of the matter.
- (3) If the notification stage under chapter 5, part 4 applies for the assessment process because the outcome for land under a land outcome document is different to the outcome for the land under the proposed PRCP schedule, a submission under section 160 may relate only to the difference in outcome for the area.
- (4) For applying subsection (2), if there is an inconsistency in land outcome documents for land, the document appearing first in the list mentioned in section 750, definition *land outcome document* prevails to the extent of the inconsistency.

### **756 Administering authority may amend environmental authority**

- (1) This section applies if the administering authority approves the PRCP schedule for a proposed PRC plan mentioned in section 755.
- (2) The authority may amend the holder's environmental authority for the relevant activities the subject of the schedule—

- (a) to the extent necessary to remove matters relating to rehabilitation that are dealt with in the schedule; and
  - (b) to make any clerical or formal change resulting from the approval of the schedule.
- (3) If the administering authority amends the environmental authority under this section, chapter 5, part 6 applies as if the amendment were a matter mentioned in section 215(2).

### **757 Applications for decision about amount and form of financial assurance**

- (1) This section applies in relation to an environmental authority for a resource activity if, before the commencement, the administering authority had not given the holder of the environmental authority a notice under the pre-amended Act, section 296 about the amount and form of financial assurance required under a condition of the environmental authority.
- (2) The pre-amended Act, chapter 5, part 12, division 2, subdivision 2 continues to apply in relation to the environmental authority as if the amending Act had not commenced.
- (3) Despite subsection (2), the administering authority must—
  - (a) transfer to the scheme manager any financial assurance for the resource activity that is given in cash to the authority after the commencement; and
  - (b) take all necessary steps to transfer to the scheme manager any instruments or other forms of financial assurance in relation to the resource activity that are given to the authority after the commencement.

[s 203]

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### **758 When existing condition requiring financial assurance ends**

- (1) This section applies if—
  - (a) before the commencement, the administering authority imposed a condition on an environmental authority for a resource activity under the pre-amended Act, section 292; and
  - (b) on the commencement, the environmental authority is in force.
- (2) On the day an ERC decision is, or is taken to have been, made for the environmental authority, the condition no longer has effect.
- (3) However, if—
  - (a) the administering authority has given the holder of the environmental authority a notice under the pre-amended Act, section 296 about its decision in relation to the amount and form of financial assurance required under a condition of the environmental authority; and
  - (b) the holder has not complied with the condition before the commencement;  
the condition continues to have effect until the financial assurance for the environmental authority has been given to the administering authority in the amount and form required by the notice.
- (3A) Also, if—
  - (a) the administering authority has given the holder of the environmental authority a notice about a proposed requirement to increase the amount of financial assurance under the pre-amended Act, section 306; and

- (b) the requirement has not taken effect before the commencement;  
the condition continues to have effect until the increased amount of financial assurance has been given to the administering authority.
- (3B) In addition, if section 760 applies for the financial assurance, the condition continues to have effect until—
  - (a) the application mentioned in that section is decided; and
  - (b) the amount of financial assurance under the decision has been given to the administering authority.
- (4) After the condition stops having effect for an environmental authority under this section, the administering authority may—
  - (a) amend the environmental authority to remove the condition; and
  - (b) issue the amended environmental authority to the holder.

### **759 Claiming on or realising financial assurance started before the commencement**

- (1) This section applies if—
  - (a) before the commencement, the administering authority gave a written notice under the pre-amended Act, section 299 to an entity who gave a financial assurance; and
  - (b) on the commencement, the administering authority has not decided whether to make a claim on or realise the financial assurance under the pre-amended Act, section 301.
- (2) If the financial assurance was given for an

[s 203]

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environmental authority for a prescribed ERA, the pre-amended Act, chapter 5, part 12, division 2, subdivision 3 continues to apply in relation to the financial assurance, as if the amending Act had not commenced.

- (3) If the financial assurance was given for a small scale mining activity or an environmental authority for a resource activity, the amended Act, chapter 5, part 14, division 3 applies in relation to the financial assurance as if—
  - (a) the notice were a notice given under section 316E; and
  - (b) a written representation about the notice given by the entity before the commencement were a representation given under section 316E; and
  - (c) the financial assurance were a scheme assurance.

### **760 Existing applications to amend or discharge financial assurance**

- (1) This section applies if—
  - (a) before the commencement, the holder of an environmental authority applied to amend or discharge a financial assurance under the pre-amended Act, section 302; and
  - (b) on the commencement, the application has not been decided.
- (2) The pre-amended Act, chapter 5, part 12, division 2, subdivision 4 continues to apply in relation to the financial assurance.
- (3) Despite subsection (2), the administering authority must—
  - (a) transfer to the scheme manager any financial assurance for the environmental authority

that is given in cash to the authority after the commencement; and

- (b) take all necessary steps to transfer to the scheme manager any instruments or other forms of financial assurance in relation to the resource activity that are given to the authority after the commencement.

### **761 ERC decisions for environmental authorities for resource activities**

- (1) This section applies in relation to an environmental authority for a resource activity in force on the commencement, if—
  - (a) before the commencement, a notice about the amount and form of financial assurance was given to the holder of the authority under the pre-amended Act, section 296; or
  - (b) if section 757 applies to the environmental authority—a notice about the amount and form of financial assurance is given to the holder of the authority for a resource activity.
- (2) On the relevant day for the environmental authority, an ERC decision is taken to have been made for the resource activity under the amended Act, section 300.
- (3) For applying the amended Act, chapter 5, part 14—
  - (a) the estimated rehabilitation cost under the ERC decision is taken to be the amount of the financial assurance for the environmental authority decided by the administering authority under the pre-amended Act, section 295; and

[s 203]

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- (b) subject to subsection (5), the ERC period for the ERC decision is taken to be the period starting on the relevant day for the environmental authority, and ending on—
  - (i) if the resource activity relates to a mining lease—the day the holder’s plan of operations, continued under section 753, ends; or
  - (ii) if the resource activity relates to a petroleum activity for an ineligible ERA or a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—the day that is 3 years after the relevant day or, if the plan period for the holder’s plan of operations for the activity ends earlier, the day the plan period ends; or
  - (iii) otherwise—the day all resource activities carried out under the environmental authority have ended.
- (4) The administering authority must, as soon as practicable after the relevant day for the environmental authority, comply with section 301 in relation to the ERC decision.
- (5) If the notice given under section 301 states that the ERC period for the ERC decision ends on a day that is later than the day mentioned in subsection (3)(b) for the environmental authority, the ERC period ends on the day stated in the notice.
- (6) The amended Act, section 297 applies in relation to the environmental authority on and from the relevant day for the authority.
- (7) In this section—  
***relevant day***, for an environmental authority, means—

- (a) if, before the commencement, a notice was given to the holder of the authority about the amount and form of financial assurance under the pre-amended Act, section 296—the commencement; or
- (b) if section 757 applies to the environmental authority—the day a notice of a decision about the amount and form of financial assurance is given to the holder of the authority.

**762 ERC decisions for environmental authorities for resource activities if s 761 does not apply**

- (1) This section applies to an environmental authority for a resource activity in force on the commencement if section 761 does not apply in relation to the authority.
- (2) On the commencement, an ERC decision is taken to have been made for the resource activity under the amended Act, section 300.
- (3) For applying the amended Act, chapter 5, part 14—
  - (a) the estimated rehabilitation cost under the ERC decision is taken to be—
    - (i) if, before the commencement, the holder has given financial assurance to the administering authority—the amount of the financial assurance given; or
    - (ii) otherwise—nil; and
  - (b) the ERC period for the ERC decision is taken to be 3 years starting on the commencement.

### **763 Application of s 298 before PRC plan is in force**

- (1) This section applies in relation to a mining EA holder if, on the day the holder applies for a new ERC decision, a PRCP schedule is not yet in force for the mining activities.
- (2) Despite section 296, definition *ERC period*, the holder's application must, for section 298(2)(b), state a period of between 1 and 5 years.

### **764 Application of s 21A of amended Act**

- (1) This section applies to a small scale mining activity being carried out on the commencement, other than an activity carried out under a prospecting permit.
- (2) On the commencement, the prescribed condition mentioned in the amended Act, section 21A(2) applies in relation to carrying out the activity.

### **765 Transfer of funds**

- (1) On the commencement, the administering authority must—
  - (a) transfer to the scheme manager all financial assurances for resource activities given under the pre-amended Act in cash and held by the authority; and
  - (b) take all necessary steps to transfer to the scheme manager any instruments or other forms of financial assurance held by the authority.
- (2) In this section—

*financial assurance* includes a financial assurance given by the holder of a small scale mining tenure under a prescribed condition

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imposed under the pre-amended Act, section 21A.

### **766 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature about any matter—
  - (a) for which it is necessary to make provision to allow or to facilitate the doing of anything to achieve the transition from the pre-amended Act to the amended Act; and
  - (b) for which this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 2 years after the commencement.

### **204 Amendment of sch 2 (Original decisions)**

- (1) Schedule 2, part 1, division 3, entries for sections 233(2)(b)(ii), 295(1), 301(1), 305(1) and 306(1)—  
*omit.*
- (2) Schedule 2, part 1, division 3—  
*insert—*

275A	decision to amend PRCP schedule for partial surrender of environmental authority
300	ERC decision for a resource activity



*omit, insert—*

316P(2)

- (8) Schedule 2, part 2, division 2, entry for section 295(1), '295(1)'—

*omit, insert—*

310(1)

- (9) Schedule 2, part 2, division 2, entry for section 301(1)—

*omit, insert—*

316G                      decision to make claim on or realise EPA assurance  
                                 for an environmental authority for a prescribed ERA

- (10) Schedule 2, part 2, division 2, entry for section 305(1), '305(1)'—

*omit, insert—*

314(1)

- (11) Schedule 2, part 2, division 2, entry for section 306(1), '306(1)'—

*omit, insert—*

315(1)

- (12) Schedule 2, part 2, division 2, entry for section 311, '311'—

*omit, insert—*

316M

- (13) Schedule 2, part 2, division 2, entry for section 314(2), '314(2)'—

*omit, insert—*

316N(2)

[s 205]

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## 205 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *annual notice*, *conditions*, *financial assurance*, *on-site mitigation measure*, *plan of operations*, *relevant lease* and *statement of compliance*—

*omit.*

(2) Schedule 4—

*insert—*

***annual notice*** see section 316I(2).

***audit period***, for a PRCP schedule, see section 285(1).

***audit report***, for a PRCP schedule, see section 285(2)(a).

***conditions***, for an environmental authority or PRCP schedule, includes a condition of the authority or schedule that has ended or ceased to have effect, if the condition imposed an obligation that continues to apply after the authority or schedule has ended or ceased to have effect.

***environmental record***, of a holder of an environmental authority, means the holder's record of complying with a law of the Commonwealth or the State about the protection of the environment or the conservation and sustainable use of natural resources.

***EPA assurance*** see section 316A.

***ERC decision*** see section 296.

***ERC period*** see section 296.

***estimated rehabilitation cost***, for a resource activity, see section 300(2).

***financial assurance***, for an environmental authority for a prescribed ERA, means a financial assurance given for the authority under chapter 5, part 14, division 2.

***financial assurance guideline*** means a guideline made by the chief executive under section 550(1)(a) about information mentioned in section 309(3)(b) or 312(2)(d).

***management milestone***, for chapter 5, see section 112.

***minor amendment (PRCP threshold)***, for a PRCP schedule, see section 223.

***minor amendment (threshold)***, for an environmental authority, see section 223.

***new day***, for the anniversary day for an environmental authority, see section 316L(1).

***non-use management area*** see section 112.

***plan of operations*** see section 289.

***plan period***, for a plan of operations, see section 292(1)(c).

***post-mining land use*** see section 112.

***PRC plan*** see section 112.

***PRCP schedule*** see section 112.

***public interest consideration*** see section 316PA(3).

***public interest evaluation*** see section 112.

***rehabilitation auditor***, for chapter 5, part 12, division 2, means a person who meets the requirements mentioned in section 288(1).

***rehabilitation milestone*** see section 112.

***rehabilitation planning part***, of a PRC plan, see section 126C(2).

***scheme assurance***, for chapter 5, part 14, division 3, see section 316A.

***scheme fund*** means the scheme fund established under the *Mineral and Energy Resources*

[s 205]

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(*Financial Provisioning*) Act 2018, section 24.

**scheme manager** means the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

**stable condition** see section 111A.

**statement of compliance**—

(a) for an environmental authority or draft environmental authority—see section 207(1)(b); or

(b) for a PRCP schedule or proposed PRCP schedule—see section 206A(3).

- (3) Schedule 4, definitions *amendment application*, *major amendment*, *minor amendment*, *objector* and *proposed amendment*, after ‘authority’—

*insert*—

or PRCP schedule

- (4) Schedule 4, definition *anniversary day*, item 2, ‘part 12, division 3, subdivision 2’—

*omit, insert*—

part 15, division 3

- (5) Schedule 4, definition *application documents*, after ‘authority’—

*insert*—

, including a proposed PRC plan

- (5A) Schedule 4, definition *application documents*—

*insert*—

(d) a report evaluating an EIS under the *State Development and Public Works Organisation Act 1971*, section 34D; and

(e) an EIS assessment report.

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- (6) Schedule 4, definition *assessment level decision*, ‘section 228(2)’—  
*omit, insert—*  
section 228(3)
- (7) Schedule 4, definition *assessment process*, after ‘application’—  
*insert—*  
, and assessing and approving a proposed PRC plan,
- (8) Schedule 4, definition *environmental authority*, paragraph (b)—  
*omit, insert—*  
(b) for chapter 5, part 14, division 3, see section 316A.
- (9) Schedule 4, definition *environmental offence*, paragraph (a), second dot point, ‘291(3)’—  
*omit, insert—*  
295(3)
- (10) Schedule 4, definition *environmental requirement*, paragraph (e)—  
*omit, insert—*  
(e) a PRCP schedule; or  
(f) a condition of an environmental authority or PRCP schedule that has ended or ceased to have effect, if the condition—  
(i) continues to apply after the authority or schedule has ended or ceased to have effect; and  
(ii) has not been complied with.

*Note—*

See section 207(3) and definition *conditions*.

[s 205]

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- (11) Schedule 4, definition *holder*, item 3, after ‘authority’—  
*insert*—  
or PRC plan
- (12) Schedule 4, definition *holder*, item 4A—  
*omit, insert*—  
4A However, if a resource tenure for which a holder has an environmental authority or PRCP schedule ends, the person who was the holder of the tenure under resource legislation immediately before it ended continues to be the holder of the environmental authority or PRCP schedule.
- (13) Schedule 4, definition *ineligible ERA*, ‘, for chapter 5,’—  
*omit*.
- (14) Schedule 4, definition *regulatory requirement*, paragraph (a)(i)(A), after ‘authority’—  
*insert*—  
and any accompanying proposed PRCP schedule
- (15) Schedule 4, definition *regulatory requirement*, paragraph (a)(i)(B), after ‘authority’—  
*insert*—  
or an amendment application for a PRCP schedule
- (16) Schedule 4, definition *regulatory requirement*, paragraph (a)(ii)—  
*omit, insert*—  
(ii) impose or amend a condition of an environmental authority, PRCP schedule or approval of a transitional environmental program; or
- (17) Schedule 4, definition *relevant activity*, paragraph (c)—  
*omit, insert*—

- (c) for a proposed PRC plan or PRC plan—  
means the relevant activities to be carried  
out on land the subject of the plan; or
- (d) in relation to a company, for chapter 7, part  
5, division 2, see section 363AA.
- (18) Schedule 4, definition *relevant mining activity*—  
*insert*—
- (c) a proposed PRC plan or PRC plan—means  
the mining activity to be carried out on land  
the subject of the plan.
- (19) Schedule 4, definition *relevant mining lease*, ‘or an  
application for an environmental authority’—  
*omit, insert*—
- , an application for an environmental authority, a  
proposed PRC plan or PRC plan
- (20) Schedule 4, definition *relevant mining tenure*, ‘or an  
application for an environmental authority’—  
*omit, insert*—
- , an application for an environmental authority, a  
proposed PRC plan or PRC plan
- (21) Schedule 4, definition *relevant resource activity*—  
*insert*—
- (c) a proposed PRC plan or PRC plan— means  
the relevant activities to be carried out on  
land the subject of the plan.
- (22) Schedule 4, definition *relevant tenure*, ‘or an application’—  
*omit, insert*—
- , an application for an environmental authority, a  
proposed PRC plan or PRC plan
- (23) Schedule 4, definition *submitter*, paragraph (a)—  
*omit, insert*—

[s 206]

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- (a) for an application or proposed PRC plan, means an entity who makes a properly made submission about the application or plan; or

### **Division 3                      Amendment of Mineral and Energy Resources (Common Provisions) Act 2014**

#### **206      Act amended**

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

#### **207      Insertion of new s 20A**

Chapter 2, part 1—

*insert—*

#### **20A Failure to pay contribution to scheme fund or give surety prevents registration of prescribed dealing**

- (1) This section applies if—
  - (a) the Minister approves a prescribed dealing that is any of the following—
    - (i) a transfer of a resource authority that authorises the carrying out of a resource activity for an environmental authority mentioned in the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 32(1)(c)(i) or 33(1)(c)(i);
    - (ii) a transfer of a resource authority that authorises the carrying out of a resource activity for an environmental authority mentioned in the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 53(d);

- (iii) a transfer of a small scale mining tenure mentioned in the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 53(e); and
  - (b) a contribution to the scheme fund is required to be paid, or a surety required to be given, for the environmental authority or small scale mining tenure, under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.
- (2) The prescribed dealing must not be registered unless the entity that will be the holder of the resource authority, or small scale mining tenure, on registration of the prescribed dealing has paid the contribution to the scheme fund, or given the surety, under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

## **Division 4                      Amendment of Mineral Resources Act 1989**

### **208      Act amended**

This division amends the *Mineral Resources Act 1989*.

### **209      Amendment of s 123 (Property remaining on former mining claim may be sold etc.)**

Section 123(3)(c)—

*omit, insert—*

- (c) costs and expenses mentioned in the Environmental Protection Act, section 316C;

[s 210]

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**210 Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)**

Section 230(3)(c)—

*omit, insert—*

- (c) costs and expenses mentioned in the Environmental Protection Act, section 316C;

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

Section 298(10), note, from ‘chapter 5’—

*omit, insert—*

chapter 5, part 13.

**212 Amendment of s 314 (Property remaining on former mining lease may be sold)**

Section 314(3)(c)—

*omit, insert—*

- (c) costs and expenses mentioned in the Environmental Protection Act, section 316C;

**213 Amendment of s 344 (Definitions for pt 4)**

- (1) Section 344, heading, ‘pt 4’—

*omit, insert—*

**part**

- (2) Section 344—

*insert—*

***PRCP schedule*** see the Environmental Protection Act, section 112.

- (3) Section 344, definition *final rehabilitation site*, paragraph (b), after ‘authority’—

*insert—*

or PRCP schedule

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

Section 344A(3), after ‘an environmental authority’—

*insert—*

or PRCP schedule

**215 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

***PRCP schedule***, for chapter 13, part 4, see section 344.

**Division 5 Amendment of Right to Information Act 2009**

**216 Act amended**

This division amends the *Right to Information Act 2009*.

**217 Amendment of sch 3 (Exempt information)**

Schedule 3, section 12(1)—

*insert—*

- *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 80(2) or 82(2)

[s 218A]

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**Division 5A**                      **Amendment of State Development  
and Public Works Organisation Act  
1971**

**218A Act amended**

This division amends the *State Development and Public Works Organisation Act 1971*.

**218B Amendment of s 47C (Application of  
Coordinator-General's report to environmental authority)**

Section 47C(1), 'for the proposed environmental authority.'—  
*omit, insert—*

for—

- (a) the proposed environmental authority; and
- (b) any proposed PRCP schedule relating to the environmental authority under the Environmental Protection Act.

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## Schedule 1      Dictionary

## section 7

***abandoned mine*** see the *Mineral Resources Act 1989*, section 344.

***abandoned operating plant*** see the *Petroleum and Gas (Production and Safety) Act 2004*, section 799C.

***acting scheme manager*** means an acting scheme manager appointed under section 16.

***administering authority***, for an authority or small scale mining tenure, means the chief executive (environment).

***administration fee*** means the administration fee prescribed by regulation under section 61.

***advisory committee*** means the advisory committee established under section 83.

***allocation decision***, for an authority, means any of the following for the authority—

- (a) an initial allocation decision;
- (b) a changed holder review decision;
- (c) an annual review decision.

***annual review allocation*** see section 38(2)(b).

***annual review day***, for an authority, see section 41(a).

***annual review decision***, for an authority, means a decision under section 38 in relation to the authority.

***approved form*** means a form approved under section 86.

***assessment fee***, for a decision of the scheme manager, means the assessment fee for the decision prescribed by regulation under section 60.

***authority*** see section 8.

***cash surety account*** see section 25(1).

***changed holder review allocation*** see section 32(2)(b).

***changed holder review day***, for an authority, see section 36(a).

***changed holder review decision***, for an authority, means a decision under section 32 in relation to the authority.

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

***chief executive (mineral resources)*** means the chief executive of the department in which the *Mineral Resources Act 1989* is administered.

***chief executive (petroleum)*** means the chief executive of the department in which the *Petroleum and Gas (Production and Safety) Act 2004* is administered.

***chief executive (resources)*** means the chief executive of the department in which the *Mineral and Energy Resources (Common Provisions) Act 2014* is administered.

***confidential information***, for part 5, see section 79.

***contribution*** means a contribution under part 3, division 2, subdivision 1 to the scheme fund.

***control*** has the meaning given by the Corporations Act, section 50AA.

***departmental accounts***, of the department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

***disclose***, for part 5, see section 79.

***environmental authority***, for a resource activity, means an environmental authority for the resource activity under the *Environmental Protection Act 1994*.

***ERC period*** see the *Environmental Protection Act 1994*, section 296.

***estimated rehabilitation cost***, for an authority, see section 8.

***fund threshold*** see section 11(1).

**holder**, of an authority or small scale mining tenure, means the holder of the authority or tenure within the meaning of the *Environmental Protection Act 1994*.

**indicative annual review allocation** see section 39(1)(a).

**indicative changed holder allocation** see section 34(1)(a).

**indicative risk category allocation** see section 28(1)(a).

**information**, for part 5, see section 79.

**initial allocation day**, for an authority, see section 31(a).

**initial allocation decision**, for an authority, means a decision under section 27 in relation to an authority.

**initial risk category allocation** see section 27(1).

**interested entity**, for an authority, see section 34(1).

**notice** means written notice.

**notice of indicative decision**—

- (a) for part 3, division 1, subdivision 1—see section 28(1);  
or
- (b) for part 3, division 1, subdivision 2—see section 34(1);  
or
- (c) for part 3, division 1, subdivision 3—see section 39(1).

**parent corporation**, of a holder, means—

- (a) a corporation that controls the holder under the Corporations Act, section 50AA; or
- (b) a corporation of which the holder is a subsidiary under the Corporations Act, section 46.

**prescribed ERC amount** see section 26(1)(b).

**prescribed percentage**, for an authority, means the percentage prescribed by regulation for the authority.

**rehabilitation activities** see the *Mineral Resources Act 1989*, section 344A.

**relevant holder**, of an authority, for a matter relating to—

- (a) an initial allocation decision—see section 27(5)(c); or

(b) a changed holder review decision—see section 32(6)(c);  
or

(c) an annual review decision—see section 38(6)(c).

**remediation activities** see the *Petroleum and Gas (Production and Safety) Act 2004*, section 799D.

**requesting entity**—

(a) for part 3, division 3, subdivision 1—see section 63; or

(b) for part 3, division 3, subdivision 2—see section 66.

**resource activity** see the *Environmental Protection Act 1994*, section 107.

**resource authority** see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 10.

**risk category** means a category mentioned in section 27(1).

**scheme** see section 4(a).

**scheme fund** see section 24(1).

**scheme manager** means the scheme manager appointed under section 12.

**scheme manager guidelines** means the guidelines made by the scheme manager under section 70 and in effect.

**small scale mining tenure** see the *Environmental Protection Act 1994*, section 21A(2).

**surety** means a surety under part 3, division 2, subdivision 2.

**total estimated rehabilitation cost**—

(a) for an entity, see section 9; or

(b) for the State, see section 10.

**Treasurer** means the Minister administering the *Financial Accountability Act 2009*.