



Gasfields Commission Act 2013

Current as at 13 September 2017

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Queensland

Gasfields Commission Act 2013

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Gasfields Commission Act 2013

An Act to establish the Gasfields Commission

Part 1 Preliminary

1 Short title

This Act may be cited as the *Gasfields Commission Act 2013*.

2 Commencement

This Act commences on 1 July 2013.

3 Purpose

The purpose of this Act is to establish the Gasfields Commission to manage and improve the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland.

4 Act binds all persons

This Act binds all persons, including the State.

5 Definitions

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

Part 2 Gasfields Commission

Division 1 Establishment, functions and powers of commission

6 Establishment of commission

The Gasfields Commission is established.

7 Commission's functions

- (1) The commission has the following functions—
 - (a) facilitating better relationships between landholders, regional communities and the onshore gas industry;
 - (b) reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry;
 - (c) advising Ministers and government entities about the ability of landholders, regional communities and the onshore gas industry to coexist within an identified area;
 - (d) in response to requests for advice from the chief executive under the *Regional Planning Interests Act 2014* about assessment applications under that Act, advising that chief executive about the ability of landholders, regional communities and the resources industry to coexist within the area the subject of the application;
 - (e) making recommendations to the relevant Minister that regulatory frameworks and legislation relating to the onshore gas industry be reviewed or amended;
 - (f) making recommendations to the relevant Minister and onshore gas industry about leading practice or management relating to the onshore gas industry;
 - (g) advising the Minister and government entities about matters relating to the onshore gas industry;

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- (h) obtaining particular information from government entities and prescribed entities;
 - (i) obtaining advice about the onshore gas industry or functions of the commission from government entities;
 - (j) supporting the provision, to the community and stakeholders, of information prepared by appropriate entities on health and wellbeing matters relating to the onshore gas industry or geographical areas in which the onshore gas industry operates;
 - (k) facilitating appropriate entities to undertake community engagement and participation in initiatives about assessing health and wellbeing concerns relating to onshore gas activities;
 - (l) publishing educational materials and other information about the onshore gas industry;
 - (m) partnering with other entities for the purpose of conducting research related to the onshore gas industry;
 - (n) convening advisory bodies to assist the commission to perform a function mentioned in paragraphs (a) to (m).
- (2) In this section—
- appropriate entities* includes, for example—
- (a) a government department, or agency, of Queensland or elsewhere; and
 - (b) an entity that is performing or has performed an independent academic or scientific study.

8 Commission's powers

- (1) The commission has the powers necessary or convenient to perform the commission's functions.
- (2) The commission also has the other powers given to the commission under this or another Act.

Division 2 Membership

9 Membership of commission

The commission consists of—

- (a) a full-time or part-time commissioner, who is the chairperson; and
- (b) up to 6 part-time commissioners.

9A Appointment as a commissioner

- (1) Each commissioner is to be appointed by the Governor in Council.
- (2) In deciding whom to recommend to the Governor in Council for appointment to the commission, the Minister must be satisfied—
 - (a) each person nominated for appointment is eligible under section 10; and
 - (b) the commission will include—
 - (i) a commissioner who has knowledge of, or experience with, the interests of landholders; and
 - (ii) a commissioner who has knowledge of, or experience with, the interests of communities in which the onshore gas industry operates; and
 - (iii) a commissioner who has knowledge of, or experience with, the onshore gas industry.
- (3) The performance of the commission's function mentioned in section 7(d) is not invalid for the purposes of the *Regional Planning Interests Act 2014* only because of a defect or irregularity in the appointment of a commissioner or because the commission was not properly constituted.

10 Eligibility for appointment as a commissioner

A person is eligible for appointment as a commissioner if the person has qualifications or experience in any of the following—

- the onshore gas industry
- a branch of science relating to the exploration or production of petroleum, or the impact of those activities on the environment
- legal practice relevant to the exploration or production of petroleum
- negotiations between landholders and the onshore gas industry
- land management
- land valuation
- community development
- the financial and business sector.

11 Term of appointment

- (1) A commissioner is appointed for the term, not longer than 3 years, stated in the commissioner's instrument of appointment.
- (2) A commissioner may be reappointed.

12 Conditions of appointment

- (1) A commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) A commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (3) The commissioners are appointed under this Act and not the *Public Service Act 2008*.

13 Resignation

A commissioner may resign by signed notice given to the Minister.

14 Termination of appointment

The Governor in Council may at any time remove a commissioner from office for any reason or none.

15 Leave of absence

The Minister may approve a leave of absence for a commissioner who requests the leave.

16 Acting commissioner

- (1) The Minister may appoint a person (whether or not a commissioner), the Minister is satisfied is an eligible person, to act as the chairperson—
 - (a) during a vacancy in the office of chairperson; or
 - (b) during any period, or all periods, when the chairperson is absent from duty or from the State or, for any other reason, can not perform the duties of the office of chairperson.
- (2) The chairperson may appoint any other commissioner to act as the chairperson during a period, of not more than 14 days, when the chairperson—
 - (a) is absent from duty or from the State; or
 - (b) for any other reason, can not perform the duties of the office of chairperson.
- (3) The Minister may appoint a person, the Minister is satisfied is an eligible person, to act as a commissioner—
 - (a) during a vacancy in the office of a commissioner; or
 - (b) during any period, or all periods, when a commissioner is absent from duty or from the State or, for any other

reason, can not perform the duties of the office of a commissioner.

(4) In this section—

eligible person means a person who is eligible under section 10 for appointment as a commissioner.

17 Preservation of rights

(1) This section applies if—

- (a) a person is appointed as a commissioner; and
- (b) the person resigns the person's role as a public service officer in order to accept the appointment.

(2) The person retains and is entitled to all rights that have accrued to the person because of the person's employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the commissioner were a continuation of service as a public service officer.

(3) At the end of the person's term of office or on resignation—

- (a) the person is entitled to be appointed to an office in the public service at a salary level not less than the current salary level of an office equivalent to the office the person held before being appointed as the commissioner; and
- (b) the person's service as the commissioner is to be regarded as service of a like nature in the public service for deciding the person's rights as a public service officer.

Division 3 Disclosure of interests by commissioners

18 Register of interests

- (1) The commission must keep a register of each commissioner's pecuniary interests.
- (2) The person appointed as chairperson must give the Minister and integrity commissioner—
 - (a) as soon as practicable after the person's appointment—a written summary of the person's pecuniary interests at the time of the person's appointment; and
 - (b) within 30 days after any substantial change in the person's pecuniary interests—notice of the change and an updated written summary of the person's pecuniary interests.
- (3) Each person appointed as a part-time commissioner must give the chairperson—
 - (a) as soon as practicable after the person's appointment—a written summary of the person's pecuniary interests at the time of the person's appointment; and
 - (b) within 30 days after any substantial change in the person's pecuniary interests—notice of the change and an updated written summary of the person's pecuniary interests.
- (4) The register kept under subsection (1) must be updated at least once during each 12 month period of a commissioner's term of office.
- (5) In this section—

integrity commissioner means the Queensland Integrity Commissioner appointed under the *Integrity Act 2009*, section 6.

19 Disclosure of interests at commission board meetings

- (1) This section applies to a commissioner if—
 - (a) the commissioner or a close relative of the commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, at a commission board meeting; and
 - (b) the interest could conflict with either or both of the following—
 - (i) the proper performance of the commission's functions for the matter;
 - (ii) the proper exercise of the commission's powers for the matter.
- (2) As soon as practicable after the relevant facts come to the commissioner's knowledge, the commissioner must disclose the nature of the interest to the other commissioners at the meeting.
- (3) The commissioner may further participate in the meeting only if a majority of the other commissioners at the meeting vote in favour of the commissioner's further participation in the meeting.
- (4) However, the commissioner can not participate in any vote on the matter at the meeting.
- (5) A disclosure under subsection (2) must be recorded in the meeting's minutes.
- (6) A failure to make a disclosure under subsection (2) does not, of itself, invalidate a commission decision.
- (7) This section, other than subsection (4), applies to the chief executive officer, as if the chief executive officer were a commissioner.

Note—
The chief executive officer does not have a right to vote at a commission board meeting.
- (8) In this section—

close relative, of a commissioner, means the commissioner's—

- (a) spouse; or
- (b) parent or grandparent; or
- (c) brother or sister; or
- (d) child or grandchild.

Division 4 Commission board meetings

20 Commission board meetings

The chairperson must convene a meeting of commissioners (a *commission board meeting*) at least 6 times each year.

21 Purposes of commission board meetings

The purposes of commission board meetings are to—

- (a) ensure the commission performs its functions and exercises its powers in an appropriate, effective and efficient way; and
- (b) set the strategic priorities of the commission.

22 Conduct of commission board meetings

- (1) Commission board meetings are to be held at the times and places the chairperson decides.
- (2) The chairperson must preside at all commission board meetings at which the chairperson is present.
- (3) If the chairperson is absent from a commission board meeting, another commissioner chosen by the commissioners present must preside.
- (4) A quorum for a commission board meeting is the chairperson and 2 other commissioners.

- (5) Subject to this Act, the commission may otherwise conduct commission board meetings in the way it considers appropriate.

Part 3 Particular powers of the commission

Division 1 Powers relating to government entities

23 Power to require particular information from government entities

- (1) The chairperson may give a government entity a written notice requesting information in the entity's possession or control that relates to—
- (a) the onshore gas industry; and
 - (b) a function of the commission.
- (2) The notice must state how, and a reasonable period of at least 10 business days by which, the information must be given.
- (3) The government entity must comply with a request made of it under subsection (1) unless—
- (a) the information is not in its possession or control; or
 - (b) complying with the request would place the entity in contravention of a law; or
 - (c) the request relates to someone else's confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent.
- (4) If an exemption under subsection (3) applies to a request made of a government entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the request.

24 Power to require advice

- (1) The chairperson may, by written notice, require the chief executive of a government entity to provide advice to the chairperson if the advice—
 - (a) relates to a function of the commission; and
 - (b) relates to a function of the government entity; and
 - (c) is something about which the chief executive could reasonably be able to provide advice.
- (2) The chief executive must, within a reasonable time, comply with a request made of him or her under subsection (1) unless—
 - (a) complying with the requirement would place the chief executive or entity in contravention of a law; or
 - (b) the requirement relates to someone else's confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent.
- (3) If an exemption under subsection (2) applies to a request made of a chief executive under subsection (1), the chief executive must inform the chairperson in writing that the exemption applies in relation to the request.

25 Compulsory consultation

- (1) A government entity that is developing policy or legislation intended to affect the onshore gas industry must consult with the commission about the proposed policy or legislation during the development.
- (2) However, while it is Parliament's intention that subsection (1) be complied with, subsection (1) is directory only and does not create rights or impose legally enforceable obligations on the State, a government entity or anyone else.
- (3) Failure to comply with subsection (1) does not affect the validity of any decision.

Division 2 Powers relating to landholders, onshore gas operators and other entities

26 Power to require particular information from prescribed entities

- (1) The chairperson may, by written notice, require a prescribed entity to give the chairperson—
 - (a) stated documents or information (the *relevant material*), or stated types of documents or information (also the *relevant material*), in its possession or control that the commission reasonably requires for the effective and efficient carrying out of the commission's functions; or
 - (b) access to the relevant material.
- (2) The notice must state how, and a reasonable period by which, the relevant material, or access to the relevant material, must be given.
- (3) An entity given a notice under subsection (1) must comply with the notice unless—
 - (a) the requirement relates to relevant material that is in someone else's possession or control and the other person has refused to give the relevant material to the entity despite the entity's reasonable efforts to obtain it; or
 - (b) complying with the requirement would place the entity in contravention of a law; or
 - (c) the requirement relates to someone else's confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent; or
 - (d) the giving of the relevant material might tend to incriminate the entity; or

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- (e) the relevant material is confidential to the entity or the giving of the relevant material might be to the detriment of the entity's commercial or other interests.

Maximum penalty—100 penalty units.

- (4) If an exemption under subsection (3) applies to a requirement made of a prescribed entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the requirement.

Division 3 Other

27 Publishing information

- (1) The commission may publish any information relevant to the purpose or a function of the commission.
- (2) However, the commission must not publish any confidential information under subsection (1).

28 Advisory bodies

The chairperson may establish the advisory bodies he or she considers appropriate to give the chairperson or commission—

- (a) additional or technical advice about a matter relevant to a function of the commission; or
- (b) feedback about advice the commission proposes to give the Minister or government entities.

29 Gasfields community leaders council

- (1) The commission must establish a committee (the *gasfields community leaders council*) for the purpose of assisting the commission to identify issues affecting the coexistence of landholders, regional communities and the onshore gas industry in Queensland.

- (2) The gasfields community leaders council is to consist of the chief executive officer and other individuals the commission is satisfied represent local governments, regional communities and the onshore gas industry.
- (3) The chief executive officer is to preside at meetings of the gasfields community leaders council.

Part 4 Administration

30 Employment of chief executive officer

- (1) The commission must employ a chief executive officer.
- (2) The chief executive officer is employed under this Act and not the *Public Service Act 2008*.
- (3) The commission may at any time remove the chief executive officer from office for any reason or none.
- (4) The chairperson may appoint a person, other than a commissioner, to act in the office of chief executive officer during—
 - (a) a vacancy, or all vacancies, in the office; or
 - (b) any period, or all periods, when the chief executive officer is absent from duty, or can not, for another reason, perform the functions of the office.
- (5) If the office of chief executive officer is vacant for more than 4 months, the Minister may request the chairperson to have the vacancy filled.
- (6) Subsection (7) applies if the person employed as the chief executive officer resigns the person's role as a public service officer in order to accept the employment.
- (7) Section 17(2) and (3) applies to the person as if a reference in the section to appointment or service as a commissioner were a reference to employment or service as the chief executive officer.

30A Responsibilities of chief executive officer

- (1) The chief executive officer is responsible for the day-to-day administration of the commission, including, for example—
 - (a) implementing the strategic priorities of the commission set at commission board meetings; and
 - (b) developing plans to address key issues being considered by the commission; and
 - (c) for section 31, managing the process of employing other staff of the commission; and
 - (d) managing the other staff of the commission.

Note—

See section 32(2)(c) for when an officer or employee whose services are made available to the commission under section 32 is taken to be a member of the staff of the commission.

- (2) The chief executive officer is also responsible for carrying out any direction given by the chairperson to the chief executive officer in relation to helping the commission perform its functions.

31 Other commission staff

- (1) The commission may employ other staff it considers appropriate to perform its functions.
- (2) The other staff are to be employed under the *Public Service Act 2008*.

32 Alternative staffing arrangements

- (1) The commission may, with the agreement of the chief executive of a department, a local government, a government entity or a government owned corporation, arrange for the services of officers or employees of the department, local government, entity or corporation to be made available to the commission.
- (2) An officer or employee whose services are made available under subsection (1)—

- (a) continues to be an officer or employee of the department, local government, entity or corporation; and
 - (b) continues to be employed or otherwise engaged by the department, local government, entity or corporation on the same terms and conditions applying to the officer or employee before his or her services were made available; and
 - (c) is, for the period the services are made available and for the carrying out of the authority's functions, taken to be a member of the staff of the commission.
- (3) Nothing in subsection (1) requires a chief executive to enter into an arrangement with the commission for the services of officers or employees.

33 Commission not subject to outside direction

Commissioners, the chief executive officer or other staff of the commission are not subject to direction in the performance of their duties by any person, other than from within the commission.

34 Annual budgets and financial management policies

- (1) Before each 31 March—
- (a) the commission must prepare a budget—
 - (i) of estimated costs of the commission for the next financial year; and
 - (ii) consistent with the strategic priorities of the commission; and
 - (b) the commissioners must approve giving the budget and the commission's financial management policies to the Minister; and
 - (c) the commission must give the approved budget and financial management policies to the Minister.

- (2) The Minister must approve, or refuse to approve, the budget and financial management policies by each 30 April.
- (3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget or financial management policy at a later time.
- (4) A budget or financial management policy has no effect until it has been approved by the Minister.
- (5) During a financial year the commission may prepare amendments to the budget for that year.
- (6) An amendment of a budget has no effect until it has been approved by—
 - (a) for a minor amendment—the chairperson in consultation with the other commissioners; or
 - (b) otherwise—the Minister on the recommendation of the chairperson in consultation with the other commissioners.
- (7) If the chairperson and the other commissioners differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval.
- (8) In this section—

financial management policies means the policies to be observed in financial and performance management by the commission.

Note—

Under the *Financial Accountability Act 2009*, section 57 the commission must comply with a provision of a financial and performance standard that applies to the commission as a statutory body.

minor amendment, of an annual budget, means an amendment of a minor nature that does not change the total of the estimated costs mentioned in the budget.

35 Annual report

- (1) The commission must prepare and give to the Minister a written report about the operations of the commission during each financial year.
- (2) Before the report is given to the Minister the commissioners must approve the report.
- (3) The report must be given to the Minister as soon as practicable after the end of the financial year, but within a period that will allow the report to be tabled in the Legislative Assembly within 3 months after the end of the financial year to which the report relates.
- (4) Without limiting subsection (1), the commission must include in the report—
 - (a) details of the functions performed by the commission during the year; and
 - (b) financial statements for the commission for the year; and
 - (c) a description of the prosecutions, if any, undertaken by the commission during the year; and
 - (d) information about how efficiently and effectively the commission has carried out its operations, including identifying key achievements and financial and non-financial performance.
- (5) A description may include statistics.
- (6) The report must not be prepared in a way that discloses confidential information.

36 Delegation

- (1) The chairperson may delegate any of the chairperson's functions to any other commissioner or to the chief executive officer.
- (2) The commission may delegate any function of the commission to the chief executive officer or other staff of the commission.

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- (3) The chief executive officer may delegate any of the chief executive officer's responsibilities under section 30A to other staff of the commission.
- (4) In this section—
functions includes powers.

Part 5 General offences and legal proceedings

Division 1 General offences

37 False or misleading statements

- (1) This section applies to a person who, in compliance with this Act, must provide information to the chairperson.
- (2) The person must not state anything to the chairperson that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

38 False or misleading documents

- (1) This section applies to a person who, in compliance with this Act, must provide information to the chairperson.
- (2) The person must not give the chairperson a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (3) Subsection (2) does not apply to a person if the person, when giving the document—
 - (a) tells the chairperson, 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.

39 Use of confidential information

- (1) This section applies to a person who—
 - (a) is, or has been, a commissioner or the chief executive officer or other staff member of the commission; and
 - (b) obtains confidential information in administering or performing a function under this Act.
- (2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—
 - (a) in the performance of functions under this Act; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) otherwise required or permitted by law.

Maximum penalty—50 penalty units.

Division 2 Evidentiary provisions

40 Summary offences

An offence against this Act is a summary offence.

41 Appointments and authority

In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment under this Act of a commissioner;
- (b) the authority of a commissioner or the chief executive officer or other staff of the commission to do anything under this Act.

42 Signatures

A signature purporting to be the signature of a commissioner or the chief executive officer is evidence of the signature it purports to be.

43 Other evidentiary aids

- (1) In a proceeding, a certificate purporting to be that of the chairperson stating any of the following matters is evidence of the matter—
 - (a) a stated document is an appointment or notice made or given under this Act;
 - (b) a stated document is a document given to the commission under this Act;
 - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b);
 - (d) on a stated day, a stated requirement was made of a person.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

44 Protection from liability

- (1) A commissioner and the chief executive officer do not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the commissioner or chief executive officer, the liability attaches instead to the State.

45 Commission is a statutory body

- (1) The commission is a statutory body under—

49 Initial chief executive officer—how employed and prohibition on particular benefits

- (1) The person taken to be appointed as the chief executive officer under section 48—
 - (a) is employed by the commission as the chief executive officer on the same terms, as far as practicable, as the person was, immediately before the commencement, employed on as the general manager; and
 - (b) is not entitled to an amount or other benefit that is or might otherwise be payable to, or acquired by, the person because of the repeal of former section 30.
- (2) Subsection (1)(b) has no effect on superannuation entitlements or leave entitlements.
- (3) No compensation is payable to the person because of the repeal of former section 30.

50 Continuation of particular former provisions about general manager

Former sections 30(4), 39, 41 and 42 continue to apply to each person who, at any time before the commencement, was employed as the general manager under former section 30, as if the amending Act had not been enacted.

Schedule 1 Dictionary

section 5

chairperson means the person appointed as the chairperson under section 9A.

chief executive officer means the person appointed as the chief executive officer under section 30.

commission means the Gasfields Commission established under section 6.

commission board meeting see section 20.

commissioner means a person appointed as a commissioner under section 9A.

confidential information—

- (a) means any information that—
 - (i) could identify an individual; or
 - (ii) is about a person's current financial position or financial background; or
 - (iii) would be likely to damage the commercial activities of a person to whom the information relates; but
- (b) does not include—
 - (i) information that is publicly available; or
 - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

government entity see the *Public Service Act 2008*, section 24.

landholder means an entity that holds either a freehold or leasehold interest in land within Queensland.

onshore gas industry means the businesses that—

- (a) carry out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carry out the transportation of petroleum, within Queensland, using a pipeline within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.

onshore gas operator means an entity that—

- (a) carries out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carries out the transportation of petroleum, within Queensland, using a pipeline within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.

petroleum see the *Petroleum and Gas (Production and Safety) Act 2004*, section 10.

prescribed entity means—

- (a) a landholder; or
- (b) an onshore gas operator; or
- (c) a company engaged under a written agreement to carry out work, on behalf of an onshore gas operator, that relates to the exploration or production of petroleum.

resources industry—

- (a) means the businesses that carry out a resource activity within the meaning of the *Regional Planning Interests Act 2014*, section 12(2); and
- (b) includes the onshore gas industry.