

Queensland

Environmental Protection Act 1994

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Environmental Protection Act 1994

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Environmental Protection Act 1994

An Act about the protection of Queensland's environment

Chapter 1 Preliminary

Part 1 Introductory provisions

1 Short title

This Act may be cited as the *Environmental Protection Act 1994*.

Part 2 Object and achievement of Act

3 Object

The object of this Act is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (***ecologically sustainable development***).

4 How object of Act is to be achieved

(1) The protection of Queensland's environment is to be achieved by an integrated management program that is consistent with ecologically sustainable development.

(2) The program is cyclical and involves the following phases—

(a) phase 1—establishing the state of the environment and defining environmental objectives;

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(b) phase 2—developing effective environmental strategies;

(c) phase 3—implementing environmental strategies and integrating them into efficient resource management;

(d) phase 4—ensuring accountability of environmental strategies.

(3) The relationship between each of the phases is shown in the figure appearing at the end of this Act.

(4) Phase 1 is achieved by—

(a) researching the state of the environment, including essential ecological processes; and

(b) deciding environmental values to be protected or achieved by consulting industry, government departments and the community.

(5) Phase 2 is achieved by—

(a) developing environmental protection policies that, among other things—

(i) decide environmental indicators; and

(ii) establish ambient and emission standards for contaminants; and

(iii) require waste management, including waste prevention and minimisation; and

(iv) advise on management practices; and

(b) promoting environmental responsibility and involvement within the community.

(6) Phase 3 is achieved by—

(a) integrating environmental values into land use planning and management of natural resources; and

(b) ensuring all reasonably practicable measures are taken to protect environmental values from all sources of environmental harm; and

(c) monitoring the impact of the release of contaminants into the environment; and

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(d) requiring persons who cause environmental harm to pay costs and penalties for the harm.

(7) Phase 4 is achieved by—

(a) reviewing the results of human activities on the environment; and

(b) evaluating the efficiency and effectiveness of environmental strategies; and

(c) reporting publicly on the state of the environment.

5 Obligations of persons to achieve object of Act

If, under this Act, a function or power is conferred on a person, the person must perform the function or exercise the power in the way that best achieves the object of this Act.

6 Community involvement in administration of Act

This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, industry, Aboriginal peoples and Torres Strait Islander peoples under Aboriginal tradition and Island custom, interested groups and persons and the community generally.

6A Principles of environmental protection

(1) This Act is to be administered having regard to—

(a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—

(i) the precautionary principle;

(ii) intergenerational equity;

(iii) conservation of biological diversity and ecological integrity;

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(iv) improved valuation, pricing and incentive mechanisms (which includes the principle known as the principle of polluter pays); and

(b) the principle (known as the principle of proportionality) that a decision, action or thing directed towards minimising harm or a risk of harm to the environment should be proportionate to the harm or risk of harm that is being addressed; and

(c) the principle (known as the principle of primacy of prevention) that prevention of harm to the environment is preferred to remedial or mitigation measures.

(2) If a provision of this Act requires the chief executive or administering authority to consider, or have regard to, the standard criteria, the chief executive or administering authority—

(a) must consider, or have regard to, the standard criteria; and

(b) need not but may consider, or have regard to, any other principle mentioned in subsection (1).

Part 3 Interpretation

Division 1 Dictionary

7 Definitions—dictionary

The dictionary in schedule 4 defines particular words used in this Act.

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Division 2 Key concepts

Subdivision 1 The environment and its values

8 Environment

Environment includes—

(a) ecosystems and their constituent parts, including people and communities; and

(b) all natural and physical resources; and

(c) the physical characteristics of locations, places and areas, however large or small; and

(d) the physical surroundings of people, including the land, waters, atmosphere, climate, sound, odours and tastes; and

(e) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (d).

9 Environmental value

Environmental value is—

(a) a quality or physical characteristic of the environment that is conducive to ecological health; or

(b) a quality or physical characteristic of the environment that is conducive to public health, safety or amenity; or

(c) a quality or physical characteristic of the environment that contributes to its biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; or

(d) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

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Subdivision 2 Environmental contamination

10 Contamination

Contamination of the environment is the release (whether by act or omission) of a contaminant into the environment.

11 Contaminant

A ***contaminant*** can be—

(a) a gas, liquid or solid; or

(b) an odour; or

(c) an organism (whether alive or dead), including a virus; or

(d) energy, including noise, heat, radioactivity and electromagnetic radiation; or

(e) a combination of contaminants.

12 Noise

Noise includes vibration of any frequency, whether emitted through air or another medium.

Subdivision 3 Environmental harm and nuisance

14 Environmental harm

(1) ***Environmental harm*** is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

(2) ***Environmental harm*** may be caused by an activity—

(a) whether the harm is a direct or indirect result of the activity; or

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(b) whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

15 Environmental nuisance

Environmental nuisance is unreasonable interference or likely interference with an environmental value caused by—

(a) aerosols, fumes, light, noise, odour, particles or smoke; or

(b) an unhealthy, offensive or unsightly condition because of contamination; or

(c) another way prescribed by regulation.

16 Material environmental harm

(1) ***Material environmental harm*** is environmental harm—

(a) that is not trivial or negligible in nature, extent or context; or

(b) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount but less than the maximum amount; or

(c) that results in costs of more than the threshold amount but less than the maximum amount being incurred in taking appropriate action to—

(i) prevent or minimise the harm; and

(ii) rehabilitate or restore the environment to its condition before the harm.

(2) The chief executive must ensure a threshold amount calculated under subsection (3), definition *threshold amount*, paragraph (b) is published on the department's website during the financial year to which it relates.

(3) In this section—

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maximum amount means the threshold amount for serious environmental harm.

threshold amount means—

(a) for the financial year ending 30 June 2023—$10,000; or

(b) for a later financial year—the threshold amount for the financial year immediately preceding the later financial year (the ***previous financial year***) increased by the consumer price index for the previous financial year.

17 Serious environmental harm

(1) ***Serious environmental harm*** is environmental harm—

(a) that is irreversible, of a high impact or widespread; or

(b) caused to—

(i) an area of high conservation value; or

(ii) an area of special significance, such as the Great Barrier Reef World Heritage Area; or

(c) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount; or

(d) that results in costs of more than the threshold amount being incurred in taking appropriate action to—

(i) prevent or minimise the harm; and

(ii) rehabilitate or restore the environment to its condition before the harm.

(2) The chief executive must ensure a threshold amount calculated under subsection (3), definition *threshold amount*, paragraph (b) is published on the department's website during the financial year to which it relates.

(3) In this section—

threshold amount means—

(a) for the financial year ending 30 June 2023—$100,000; or

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(b) for a later financial year—the threshold amount for the financial year immediately preceding the later financial year (the ***previous financial year***) increased by the consumer price index for the previous financial year.

17A Exclusions

Despite sections 14 and 15, a thing stated in schedule 1, part 2 is not environmental harm or environmental nuisance.

Subdivision 4 Environmentally relevant activities

18 Meaning of *environmentally relevant activity*

Each of the following is an ***environmentally relevant activity***—

(a) an agricultural ERA as defined under section 79;

(b) a resource activity as defined under section 107;

(c) an activity prescribed under section 19 as an environmentally relevant activity.

19 Environmentally relevant activity may be prescribed

(1) A regulation may prescribe an activity as an environmentally relevant activity if the Governor in Council is satisfied—

(a) that—

(i) a contaminant will or may be released into the environment when the activity is carried out; and

(ii) the release of the contaminant will or may cause environmental harm; or

(b) the activity will or may otherwise adversely affect an environmental value of the marine environment.

(1A) Without limiting subsection (1), a regulation under that subsection may prescribe an activity carried out in a relevant

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Great Barrier Reef Marine Park area as an environmentally relevant activity.

(2) To remove any doubt, a regulation made under subsection (1) may not modify the definition of an agricultural ERA or a resource activity.

(3) In this section—

Great Barrier Reef Marine Park means the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

relevant Great Barrier Reef Marine Park area means an area—

(a) partly within the State and partly outside the State, but within the Great Barrier Reef Marine Park; or

(b) of which—

(i) part is within the State but not within the Great Barrier Reef Marine Park; and

(ii) part is outside the State but within the Great Barrier Reef Marine Park.

19A Interaction between prescribed ERAs and resource activities

(1) This section applies in relation to an environmental authority for a resource activity if 1 or more activities (each an ***ancillary activity***) carried out under the authority as part of a resource activity is also a prescribed ERA.

(2) The resource activity is taken to be comprised of—

(a) the ancillary activities; and

(b) the other activities carried out under the authority as a resource activity.

(3) The ancillary activities are taken to be resource activities for the purpose of applications for an environmental authority.

(4) However, the ancillary activities are taken to be prescribed ERAs for the purpose of the following—

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(a) the power to impose conditions on the environmental authority under chapter 5, part 5, division 6;

(b) the fees that apply to the environmental authority under this Act.

Subdivision 5 Environmental management

21 Best practice environmental management

(1) The ***best practice environmental management*** of an activity is the management of the activity to achieve an ongoing minimisation of the activity's environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity.

(2) In deciding the ***best practice environmental management*** of an activity, regard must be had to the following measures—

(a) strategic planning by the person carrying out, or proposing to carry out, the activity;

(b) administrative systems put into effect by the person, including staff training and monitoring and review of the systems;

(c) public consultation carried out by the person;

(d) product and process design;

(e) waste prevention, treatment and disposal.

(3) Subsection (2) does not limit the measures to which regard may be had in deciding the ***best practice environmental management*** of an activity.

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Subdivision 6 Prescribed conditions

21A Meaning of *prescribed condition*

(1) A ***prescribed condition***, for a small scale mining activity, is a condition prescribed under a regulation for the carrying out of the activity.

Example of a prescribed condition—

a condition about rehabilitating land

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

Part 4 Operation of Act

22 Act binds all persons

This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

23 Relationship with other Acts

(1) This Act is in addition to, and does not limit, any other Act.

(2) If this Act conflicts with an Act as follows, that Act prevails, but only to the extent of the conflict—

- *Ambulance Service Act 1991*

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- *Biosecurity Act 2014*
- *Disaster Management Act 2003*
- *Fire Services Act 1990*
- *Public Safety Preservation Act 1986*, part 3
- *Radiation Safety Act 1999*
- *Transport Operations (Marine Pollution) Act 1995*.

24 Effect of Act on other rights, civil remedies etc.

(1) This Act does not limit any 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 an obligation that exists apart from this Act has been satisfied or has not been breached.

(3) In addition, a breach of the general environmental duty or the duty to restore the environment does not, of itself, give rise to a civil right or remedy.

25 Extra-territorial application of Act

A person commits an offence against this Act if—

(a) the person causes environmental harm within the State by conduct engaged in outside the State; and

(b) the conduct would constitute the offence against this Act if it were engaged in by the person within the State.

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Chapter 2 Environmental protection policies

26 Minister may make policies

The Minister may make environmental protection policies to enhance or protect Queensland's environment.

27 Scope of policies

(1) An environmental protection policy may be made about the environment or anything that affects or may affect the environment.

(2) Without limiting subsection (1), an environmental protection policy may be made about any of the following—

(a) a contaminant, including, for example, an ozone depleting substance;

(b) an industry or activity;

(c) a technology or process;

(d) an environmental value;

(e) waste management;

(f) contamination control practice;

(g) land, air or water quality;

(h) noise;

(i) litter.

28 Contents of policies

(1) An environmental protection policy must—

(a) state that the policy applies to the environment generally or to an aspect or part of the environment specified in the policy; and

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(b) identify the environmental values to be enhanced or protected under the policy.

(2) An environmental protection policy may—

(a) state the objectives to be achieved and maintained under the policy; or

(b) state indicators, parameters, factors or criteria to be used in measuring or deciding any quality or condition of the environment; or

(c) establish a program by which the stated objectives are to be achieved and maintained, including, for example, the following—

(i) quantifying ambient conditions;

(ii) the qualities and maximum quantities of any contaminant permitted to be released into the environment;

(iii) the minimum standards to be complied with in the installation or operation of vehicles, plant or equipment for the control of contaminants or waste from stated sources or places;

(iv) measures designed to protect the environment or minimise the possibility of environmental harm; or

(d) provide for a program performance assessment procedure.

(3) An environmental protection policy may make provision about anything about which a regulation may be made under this Act, and, in particular—

(a) prescribing offences for contraventions of the policy; and

(b) fixing a maximum penalty of a fine of not more than 40 penalty units for the contravention.

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33 Policies are subordinate legislation

An environmental protection policy is subordinate legislation and does not have effect until it is approved by the Governor in Council.

34 Giving effect to policies

On approval of an environmental protection policy, the administering authority must give effect to the policy.

Chapter 3 Environmental impact statements

Part 1 EIS process

Division 1 Preliminary

Subdivision 1 Application

37 When EIS process applies

(1) This part applies for a project, other than a coordinated project, if—

(a) an EIS requirement is in force in relation to an application for an environmental authority for a mining activity that is, or is part of, the project; or

(b) an EIS requirement is in force in relation to an application for an environmental authority for a resource activity, other than a mining activity; or

(c) an EIS has been required for the project under an Act as follows for which it has, under the Act, been decided or

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required that this part applies to the preparation of the EIS—

(i) the Commonwealth Environment Act;

(ii) the State Development Act;

Note—

See the State Development Act, part 4, division 2 and division 3, subdivision 1.

(iii) another State Act or another Commonwealth Act; or

(d) the voluntary preparation of an EIS for the project has been approved under part 2; or

(e) the chief executive has, under part 3—

(i) decided that an EIS would be required under this Act for an application for an environmental authority for the project; or

(ii) approved the voluntary preparation of an EIS for the project; or

(f) the project is of a type prescribed under a regulation for which approval by a Commonwealth or State authority is required.

(2) However, an EIS under this Act can not be used for making a decision under the Planning Act, other than a decision in relation to a project mentioned in subsection (1)(a) or (b).

(3) In this section—

authority, for the Commonwealth, includes the Minister of the Commonwealth for the time being administering the Commonwealth Environment Act.

EIS includes a statement, however called, that is similar to an EIS.

project includes—

(a) a development or proposed development; and

(b) an action or proposed action; and

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(c) a plan or policy.

Subdivision 2 Definitions for part 1

38 Who is an *affected person* for a project

(1) A person is an ***affected person*** for a project if the person is—

(a) a person mentioned in subsection (2) for the operational land or any land joining it; or

(b) any of the following under the *Native Title Act 1993* (Cwlth) for the operational land or for an area that includes any of the land—

(i) a registered native title body corporate;

(ii) a registered native title claimant;

(iii) a representative Aboriginal/Torres Strait Islander body; or

(c) a relevant local government for the operational land.

(2) For subsection (1)(a), the persons are as follows—

(a) for freehold land—a registered proprietor;

(b) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the *Land Act 1994* (***Land Act***), section 276—a person recorded in the register as the registered holder of the interest;

(c) for land subject to a mining claim, mineral development licence or mining lease—a holder of, or an applicant for, the mining tenure;

(d) for land subject to a relevant tenure for an environmental authority for a resource activity, other than a mining activity—the holder of the tenure;

(e) for land under the Land Act or the *Nature Conservation Act 1992* (***NCA***) for which there are trustees—a trustee of the land;

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

(g) for DOGIT land under the ALA or the *Torres Strait Islander Land Act 1991*—a trustee for the land;

(i) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act—the trustee of the land;

(j) for land that, under the *Aboriginal and Torres Strait Islander Land Holding Act 2013*, is lease land for a 1985 Act granted lease or a new Act granted lease—the lessee;

(k) for land that is any of the following, the State—

(i) unallocated State land;

(ii) a reserve under the Land Act for which there is no trustee;

(iii) a national park (scientific), national park, national park (Aboriginal land), national park (Torres Strait Islander land) or forest reserve under the NCA;

(iv) a conservation park or resources reserve under the NCA for which there are no trustees;

(v) a State forest or timber reserve under the *Forestry Act 1959*;

(vi) a State-controlled road;

(vii) a fish habitat area under the *Fisheries Act 1994*;

(l) another person prescribed under a regulation.

39 Other definitions

In this part—

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draft terms of reference, for an EIS, means draft terms of reference submitted under section 41 or resubmitted under section 41B.

final terms of reference, for an EIS, means the final terms of reference for the EIS published under section 46.

interested person means an interested person proposed by the proponent under section 41(3)(b).

operational land means the land on which the project is to be carried out.

person includes a body of persons, whether incorporated or unincorporated.

properly made submission see section 55(2).

proponent means the person who proposes the project to which this part applies.

submission period, for an EIS, means—

(a) the submission period for the EIS under section 52(1)(e) and (2); or

(b) if section 68 applies—any new submission period fixed under section 68(3)(b).

Subdivision 3 Purposes of EIS and EIS process

40 Purposes

The purposes of an EIS and the EIS process are as follows—

(a) to assess—

(i) the potential adverse and beneficial environmental, economic and social impacts of the project; and

(ii) management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project;

(b) to consider feasible alternative ways to carry out the project;

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(c) to give enough information about the matters mentioned in paragraphs (a) and (b) to the proponent, Commonwealth and State authorities and the public;

(d) to help the administering authority decide an environmental authority application for which the EIS is required;

(e) to give information to other Commonwealth and State authorities to help them make informed decisions;

(f) to meet any assessment requirements under—

(i) the Commonwealth Environment Act for a project that is, or includes, a controlled action under that Act; or

(ii) a bilateral agreement;

Note—

For what is a *controlled action* under the Commonwealth Environment Act, see section 67 (What is a *controlled action*?) of that Act.

For assessment requirements of controlled actions, see the Commonwealth Environment Act, chapter 4, part 8 (Assessing impacts of controlled actions).

For bilateral agreements, see the Commonwealth Environment Act, chapter 3 (Bilateral agreements).

(g) to allow the State to meet its obligations under a bilateral agreement.

Division 2 Terms of reference stage

Subdivision 1 Draft terms of reference

41 Submission

(1) The proponent must submit to the chief executive draft terms of reference for the EIS that allow the purposes of the EIS to be achieved for the project.

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(2) The submitted draft must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation; and

(c) include any matter prescribed under a regulation.

(3) Also, if an approval has not been given under part 2 for the project, the submitted draft must be accompanied by the following—

(a) a written description of the project and the operational land;

(b) a list stating the name and address of each person the proponent proposes as an interested person for the project;

Example of persons who may be proposed as an interested person—

an unincorporated community or environmental body with a financial or non-financial interest in the local government area that the operational land is in

(c) a statement of how the proponent proposes to consult with the interested persons;

(d) a list of the names and addresses of the affected persons for the project;

(e) a summary of the potential adverse environmental impacts of the project, and the measures proposed to avoid or minimise the adverse impacts.

41A Decision on draft terms of reference

(1) The chief executive must, within 15 business days after the draft terms of reference is submitted—

(a) review the draft and any documents accompanying the draft; and

(b) decide whether to allow the draft to proceed; and

(c) give the proponent a notice under subsection (4) or (5).

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(2) The period mentioned in subsection (1) may be extended if, before the decision is made, the proponent agrees in writing to the extension.

(3) The chief executive must refuse to allow the draft to proceed if, having regard to the draft—

(a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—

(i) would contravene a law of the Commonwealth or the State; or

(ii) would give rise to an unacceptable risk of serious or material environmental harm; or

(iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or

(iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or

(b) the chief executive is required to refuse to allow the draft to proceed under a regulatory requirement.

(4) If the chief executive refuses to allow the draft to proceed, the chief executive must give the proponent an information notice for the decision that also states—

(a) if the proponent has not previously resubmitted the draft under section 41B—that the proponent may resubmit an amended draft terms of reference for a decision under section 41B within 20 business days after the notice is given or, if the chief executive agrees to a different period, the different period; or

(b) if the proponent has previously resubmitted the draft under section 41B—

(i) that the proponent can not further resubmit the draft terms of reference; but

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(ii) the proponent may submit a new draft terms of reference under section 41 in relation to the project.

(5) If the chief executive decides to allow the draft terms of reference to proceed, the chief executive must give the proponent written notice about—

(a) the decision; and

(b) the steps the chief executive must take under section 46.

41B Proponent may resubmit draft terms of reference

(1) This section applies if the chief executive refuses, under section 41A, to allow the draft terms of reference to proceed.

(2) The proponent may resubmit, with changes, the submitted draft terms of reference to the chief executive within—

(a) 20 business days after the information notice for the decision is given under section 41A(4); or

(b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.

(3) The proponent may resubmit the draft under this section only once.

(4) Section 41A applies in relation to the resubmitted draft terms of reference.

(5) Nothing in this section prevents the proponent from submitting a new draft terms of reference under section 41 in relation to the same project.

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Subdivision 3 Final terms of reference

46 Finalising terms of reference

(1) This section applies if, under section 41A(1)(b), the chief executive decides to allow the draft terms of reference to proceed.

(2) The chief executive must, within the period prescribed under a regulation, do the following—

(a) prepare the final terms of reference;

(b) give the proponent a copy of the final terms of reference;

(c) publish the final terms of reference.

(3) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the final terms of reference.

Division 3 Submission stage

47 When EIS may be submitted

(1) The proponent may submit the EIS to the chief executive only within—

(a) 2 years after the final terms of reference are given to the proponent; or

(b) any longer period decided by the chief executive before the 2 years ends.

(2) The submitted EIS must be accompanied by the fee prescribed under a regulation.

(3) If an EIS is not submitted under subsection (1)—

(a) the final terms of reference cease to have effect; and

(b) division 2 must be complied with again before the EIS may be submitted.

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48 Chief executive may require copies of EIS

(1) The chief executive may, at any time before the submission period ends, by written notice require the proponent to give the chief executive a stated number of copies of the submitted EIS that the chief executive requires.

(2) The notice may require—

(a) the copies to be in hard copy form or in an electronic form or forms; and

(b) a stated part of the stated number to be given in hard copy form and a stated part of the number to be given in an electronic form or forms.

49 Decision on whether EIS may proceed

(1) The chief executive must consider the submitted EIS and, within 20 business days after the EIS is submitted (the ***decision period***), decide to—

(a) allow the submitted EIS to proceed under division 4, with or without conditions; or

(b) refuse to allow the submitted EIS to proceed.

(2) The chief executive may extend the decision period by up to 12 months if—

(a) the proponent agrees in writing to the extension; and

(b) the chief executive has not previously extended the decision period for the submitted EIS.

(3) The chief executive may allow the EIS to proceed only if the chief executive considers it addresses the final terms of reference in an acceptable form.

(3A) Also, the chief executive must refuse to allow the EIS to proceed if, having regard to the submitted EIS—

(a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—

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(i) would contravene a law of the Commonwealth or the State; or

(ii) would give rise to an unacceptable risk of serious or material environmental harm; or

(iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or

(iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or

(b) the chief executive is required to refuse to allow the EIS to proceed under a regulatory requirement.

(4) If the decision is to allow the EIS to proceed, the chief executive may also fix a minimum period for the making of submissions about the EIS.

(5) However, the period fixed must be at least 30 business days and must end at least 30 business days after the EIS notice is published.

(6) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision and of any submission period fixed.

(7) If the decision is to refuse to allow the EIS to proceed, or to allow the EIS to proceed on conditions, the notice must be an information notice for the decision that also states—

(a) if the proponent has not previously resubmitted the EIS under section 49A—that the proponent may resubmit the EIS under that section; or

(b) if the proponent has previously resubmitted the EIS under section 49A—that the proponent can not further resubmit the EIS under that section.

49A Proponent may resubmit EIS

(1) This section applies if—

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(a) the chief executive decides, under section 49, to refuse to allow the EIS to proceed, or to allow the EIS to proceed on conditions; and

(b) the EIS has not previously been resubmitted under this section.

(2) The proponent may resubmit, with changes, the EIS to the chief executive within—

(a) 3 months after the day notice of the decision is given to the proponent under section 49(6); or

(b) if the chief executive and the proponent have, within the 3 months, agreed to a different period—the different period.

(3) The proponent may resubmit the EIS under subsection (2) only once.

(4) The resubmitted EIS must be accompanied by the fee prescribed by regulation.

(5) The following provisions apply to the resubmitted EIS as if a reference in the provision to an EIS or submitted EIS were a reference to the resubmitted EIS—

(a) section 48;

(b) section 49.

(6) If the EIS is resubmitted because the chief executive decided to allow the EIS to proceed on conditions—

(a) without limiting section 49(3), the chief executive may allow the EIS to proceed only if the chief executive considers the conditions have been met; and

(b) the notice given under section 49(6) must include the decision mentioned in paragraph (a).

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Division 4 Notification stage

Subdivision 1 Public notice requirements

51 Public notification

(1) This section applies if the chief executive decides to allow an EIS to proceed and gives the proponent a notice about the decision under section 49(6).

(2) Within 20 business days after the giving of the notice, the proponent must—

(a) give written notice about the EIS (the ***EIS notice***) to—

(i) each affected person for the project; and

(ii) each interested person; and

(iii) any other person decided by the chief executive; and

(b) after giving the EIS notice under paragraph (a), publish the EIS notice—

(i) on a website; and

(ii) in another way prescribed under a regulation or decided by the chief executive; and

(c) make a copy of the submitted EIS available on a website.

(3) The chief executive may decide another person for subsection (2)(a)(iii) or another way of publishing the EIS notice for subsection (2)(b)(ii) only by giving the proponent an information notice about the decision before the notice is published.

(4) The proponent must keep the information mentioned in subsection (2)(b) and (c) available on a website from the start of the submission period until—

(a) if the proponent is given notice by the chief executive under section 56A(5) that the submitted EIS may not

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proceed and the proponent does not apply for a review of or appeal against the decision—the day the notice is given; or

(b) if the proponent is given notice by the chief executive under section 56A(5), as applied by section 56AA(5), that the submitted EIS may not proceed—the day the notice is given; or

(c) if paragraphs (a) and (b) do not apply—the day that is 2 years after the chief executive gives the proponent an EIS assessment report under section 57(2).

(5) This section is subject to section 68.

52 Required content of EIS notice

(1) The EIS notice must be in the approved form and state the following—

(a) a description of the project and the operational land;

(b) where the submitted EIS may be inspected;

(c) where copies of, or extracts from, the submitted EIS may be obtained;

(d) that anyone may make a submission to the chief executive about the submitted EIS;

(e) the period (the ***submission period***) during which submissions may be made;

(f) how to make a properly made submission;

(g) another matter prescribed under a regulation.

Note—

For paragraphs (b) and (c), see sections 65 (Public access to submitted EIS), 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

(2) The submission period must be at least 30 business days and must end after the later of the following to end—

(a) any minimum period for the making of submissions about the EIS fixed by the chief executive under

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section 49(4) before the notice is published under section 51(2)(b);

(b) 20 business days after the publication.

53 Declaration of compliance

(1) The proponent must, within 10 business days after the EIS notice is published, give the chief executive a statutory declaration declaring—

(a) whether or not the proponent has complied with the notice requirements under sections 51 and 52; and

(b) the name and address of each person to whom the EIS notice was given under section 51.

(2) A copy of the EIS notice must be attached to the declaration.

(3) The proponent is taken to have complied with the requirements if—

(a) a declaration is given under this section; and

(b) the declaration states the proponent has complied with the notice requirements.

Note—

For what happens if the declaration states the requirements have not been complied with, see section 68 (Substantial compliance with notice requirements may be accepted).

Subdivision 2 Submissions

54 Right to make submission

A person may, within the submission period, make a submission to the chief executive about the submitted EIS.

55 Acceptance of submissions

(1) The chief executive must accept a submission if it—

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(a) is written; and

(b) is signed by or for each person (***signatory***) who made the submission; and

(c) states the name and address of each signatory; and

(d) is made to the chief executive; and

(e) is received on or before the last day of the submission period.

(2) A submission that complies with subsection (1) is called a ***properly made submission***.

(3) The chief executive may accept a written submission even if it is not a properly made submission.

56 Response to submissions

(1) The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of each submission accepted by the chief executive.

(2) The proponent must, within the relevant period, consider the submissions and give the chief executive—

(a) a summary of the submissions; and

(b) a statement of the proponent's response to the submissions; and

(c) any amendments of the submitted EIS because of the submissions, together with an EIS amendment notice under section 66 for the amendments.

(3) In this section—

relevant period means—

(a) 20 business days after the proponent is given a copy of all submissions accepted by the chief executive; or

(b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.

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56A Assessment of adequacy of response to submission and submitted EIS

(1) This section applies if a submission is accepted by the chief executive under section 55.

(2) The chief executive must, within 20 business days after the relevant period under section 56—

(a) consider the submitted EIS and the documents given under section 56(2); and

(b) decide whether to allow the submitted EIS to proceed under divisions 5 and 6.

(3) The period may be extended if, at any time before the decision is made, the proponent has agreed in writing to the extension.

(4) The chief executive may allow the submitted EIS to proceed only if the chief executive considers—

(a) the proponent's response to the submission is adequate; and

(b) the proponent has made all appropriate amendments to the submitted EIS because of the submission.

(4A) The chief executive must refuse to allow the submitted EIS to proceed if, having regard to the submitted EIS—

(a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—

(i) would contravene a law of the Commonwealth or the State; or

(ii) would give rise to an unacceptable risk of serious or material environmental harm; or

(iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or

(iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or

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(b) the chief executive is required to refuse to allow the submitted EIS to proceed under a regulatory requirement.

(5) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision.

(6) If the decision is to refuse to allow the submitted EIS to proceed, the chief executive must give the proponent an information notice for the decision that also states—

(a) if the proponent has not previously resubmitted the EIS under section 56AA—that the proponent may resubmit the EIS under that section; or

(b) if the proponent has previously resubmitted the EIS under section 56AA—that the proponent can not further resubmit the EIS under that section.

56AA Proponent may resubmit EIS

(1) This section applies if the chief executive decides, under section 56A, to refuse to allow the EIS to proceed.

(2) The proponent may resubmit, with changes, the submitted EIS and the proponent's response to the submission mentioned in section 56A(1) to the chief executive within—

(a) 20 business days after notice of the decision is given to the proponent under section 56A(5); or

(b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.

(3) The proponent may resubmit under subsection (2) only once.

(4) A resubmitted EIS must be accompanied by the fee prescribed by regulation.

(5) Section 56A applies to the resubmitted EIS and response to submission as if a reference in the provision to a submitted EIS or the proponent's response to the submission were a

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reference to the resubmitted EIS or proponent's response to the submission.

Division 5 EIS assessment report

57 EIS assessment report

(1) This section applies only if the chief executive has given the proponent a notice under section 56A(5), including as applied by section 56AA(5), of a decision that the submitted EIS may proceed under this division and division 6.

(2) The chief executive must give the proponent a report (an ***EIS assessment report***) about the submitted EIS within 30 business days after—

(a) if, at the end of the submission period, the chief executive has accepted any submissions—the day the notice mentioned in subsection (1) was given; or

(b) otherwise—the end of the submission period.

Note—

For public inspection of the EIS assessment report, see sections 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

58 Criteria for preparing report

In preparing an EIS assessment report, the chief executive must consider the following—

(a) the final terms of reference for the EIS;

(b) the submitted EIS;

(c) all properly made submissions and any other submissions accepted by the chief executive;

(d) the standard criteria;

(e) another matter prescribed under a regulation.

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59 Required content of report

An EIS assessment report must—

(a) address the adequacy of the EIS in addressing the final terms of reference; and

(b) address the adequacy of any management, monitoring, planning or other measures for minimising adverse environmental impacts for the project; and

(c) make recommendations about the suitability of the project; and

(d) recommend any conditions on which any approval required for the project may be given; and

(e) contain another matter prescribed under a regulation.

59A Lapsing of EIS assessment report

(1) An EIS assessment report for a project lapses—

(a) on the day that is 3 years after the day the chief executive gives the proponent the EIS assessment report under section 57(2); or

(b) if, before the day mentioned in paragraph (a), the chief executive extends the period mentioned in that paragraph—on the day the extended period ends.

(2) However, if the proponent applies for an environmental authority before the EIS assessment report lapses under subsection (1), the report does not lapse until—

(a) if the application for the environmental authority is refused—the application is decided and any appeal against the decision is finalised or withdrawn; or

(b) if the application for the environmental authority is granted—the authority takes effect.

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Division 6 Completion of process

60 When process is completed

(1) The process under this part is completed for an EIS when the proponent is given an EIS assessment report for the EIS.

(2) The process is taken to have been completed for a coordinated project if the Coordinator-General's report for the EIS or IAR for the project has been given to the project's proponent.

(3) The process is taken to have been completed for another project if—

(a) an EIS or a similar statement, however called, for the project has been—

(i) finalised under the Commonwealth Environment Act, section 104(1); or

(ii) completed under another Commonwealth Act or a State Act; and

(b) the chief executive decides the process under this part has been complied with, or substantially complied with, for the EIS or statement.

Division 7 Miscellaneous provisions

Subdivision 1 Inquiries by chief executive

61 Application of sdiv 1

This subdivision applies during—

(a) any stage under divisions 2 to 6; and

(b) the taking of a step or the making of a decision within any stage under divisions 2 to 6.

Example of when subdivision applies—

1 when the chief executive is preparing the final terms of reference

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2 when the proponent is preparing the EIS

3 when the administering authority is preparing an EIS assessment report

62 Chief executive may seek advice, comment or information

(1) The chief executive may seek and consider relevant advice, comment or information from the proponent or another person.

(2) The request may be by public notice.

(3) If the request is made of the proponent, it must be written, and must state a reasonable period for the giving of the advice, comment or information sought.

63 Disclosure of relevant documents or information

The chief executive may give anyone a document or information if it—

(a) is mentioned in this part; or

(b) is required to be given to the chief executive under this part; or

(c) relates to the project or the process under this part.

64 Making of inquiry does not of itself alter EIS process

Asking for and receiving, or giving, a document or advice, comment or information under this subdivision does not—

(a) replace any public notice or other stage or step required under divisions 2 to 6; or

(b) extend or reduce the period required to take a step or make a decision under divisions 2 to 6; or

(c) affect or limit a provision of divisions 2 to 6 that allows the chief executive and the proponent to agree about the period for the taking of a step under the EIS process.

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Subdivision 2 Public inspection

65 Public access to submitted EIS

If a person asks the proponent for a copy of a submitted EIS, the proponent must, on payment of the appropriate fee to the proponent, give the person the copy.

Note—

See also sections 540A (Registers to be kept by chief executive) and 542 (Inspection of register).

For the appropriate fee, see section 543 (Appropriate fee for copies).

Subdivision 3 Amending EIS

66 Amending EIS

(1) The proponent may amend or replace the submitted EIS (the ***original EIS***) at any time before the EIS assessment report is given to the proponent.

(2) However, the submitted EIS can not be amended during the submission period for the EIS.

(3) Also, an amendment may be made only by giving the chief executive written notice of the amendment (an ***EIS amendment notice***).

(4) An EIS amendment notice must be accompanied by the fee prescribed under a regulation.

(5) The submitted EIS is taken to be the original EIS, as amended from time to time by an EIS amendment notice given for the original EIS.

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Subdivision 4 Effects of noncompliance with process

67 Process is suspended

(1) This section applies if the proponent—

(a) does not comply with a requirement under the EIS process for an EIS; or

(b) becomes entitled to take the next step under the process and has not taken the step.

(2) The following are suspended until the requirement is complied with or the step is taken—

(a) the EIS process for the EIS;

(b) any obligations of the chief executive under this part for the EIS.

(3) The proponent's submitted EIS lapses on the later of the following days if the requirement has not been complied with or the step has not been taken—

(a) the first anniversary of the suspension;

(b) if the chief executive and the proponent have, before the first anniversary, agreed to a later day—the later day.

(4) This section is subject to sections 47 and 68.

68 Substantial compliance with notice requirements may be accepted

(1) If the proponent has not complied with the notice requirements under division 4, subdivision 1, the chief executive must decide whether to allow the EIS to proceed under this part as if the noncompliance had not happened.

(2) The chief executive may decide to allow the EIS to proceed only if the chief executive is satisfied there has been substantial compliance with the requirements.

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(3) If the chief executive decides not to allow the EIS to proceed, the chief executive must, within 10 business days after the decision is made—

(a) fix a new period for compliance with the requirements (the ***new notice period***); and

(b) fix a new submission period; and

(c) give the proponent an information notice about the decision not to allow the EIS to proceed and the decision about the new notice period.

(4) The information notice must state the new notice period and the new submission period.

(5) The new notice period applies despite the period for giving the notice under section 51(2).

Part 2 Voluntary preparation of EIS

69 Purpose of pt 2

(1) The purpose of this part is to allow the proponent for a project to voluntarily prepare an EIS for the project by using the EIS process, if it is appropriate to do so.

(2) The purpose is achieved by providing for an approval process for the voluntary preparation of an EIS.

70 Projects that may be approved for EIS

(1) The proponent for a project may apply to the chief executive for approval to prepare an EIS for a project.

(2) However, an application can not be made for a project if—

(a) an EIS requirement is in force for an application under this Act relating to the project; or

(b) the Commonwealth Environment Act requires the project to be assessed under chapter 4, part 8 of that Act and the EIS process has not been decided as an

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accredited process under the Commonwealth Environment Act; or

Note—

See the Commonwealth Environment Act, sections 47 (Agreement may declare classes of actions do not need assessment) and 87 (Minister must decide on approach for assessment).

(c) an EIS or similar statement, however called, must be prepared for the project under another State Act and that Act does not allow the EIS or statement to be prepared under the EIS process.

71 Requirements for application

An approval application must be—

(a) in the approved form; and

(b) supported by enough information to allow the chief executive to decide whether an EIS is appropriate for the project; and

(c) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and

(d) accompanied by—

(i) the documents that, under section 41(3), must accompany a submitted draft terms of reference for an EIS; and

(ii) the fee prescribed under a regulation.

72 Deciding application

(1) The chief executive must consider the application and decide either to grant or refuse the approval.

(2) However, the chief executive may grant the approval only if the chief executive considers an EIS is appropriate for the project.

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(3) The chief executive must, within 10 business days after the decision is made, give the proponent a written notice stating the decision, and the reasons for it.

Part 3 Decision about whether EIS may be required

73 Main purpose of part and its achievement

(1) The main purpose of this part is to allow a person who is considering applying for an environmental authority for a project to find out whether an EIS would be required for the application under this Act.

(2) The main purpose is achieved by providing for a process for the chief executive to decide whether an EIS would be required under this Act for an application for an environmental authority (an ***EA application***) for a project.

73A Proposed applicant may apply for decision about EIS

(1) A person may apply to the chief executive—

(a) for a decision about whether an EIS would be required under this Act for an EA application for a project; and

(b) for approval to prepare an EIS for a project if the chief executive decides an EIS would not be required under this Act for an EA application for the project.

(2) The application may be made—

(a) for only a decision under subsection (1)(a); or

(b) for a decision under subsection (1)(a) and, if applicable, an approval under subsection (1)(b).

73B Requirements for application

The application must be—

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(a) in the approved form; and

(b) supported by enough information to allow the chief executive to decide whether an EIS would be required for an EA application for the project; and

(c) if the application includes an application for an approval under section 73A(1)(b)—

(i) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and

(ii) the documents that, under section 41(3), must accompany a submitted draft terms of reference for an EIS; and

(d) accompanied by the fee prescribed by regulation.

73C Deciding application

(1) The chief executive must consider the application and decide—

(a) whether an EIS would be required under this Act for an EA application for the project; and

(b) if the application includes an application for an approval under section 73A(1)(b) and the chief executive decides an EIS would not be required under this Act for an EA application for the project—to grant or refuse the approval.

(2) In making a decision under subsection (1)(a), the chief executive must consider the standard criteria.

(3) The chief executive may grant an approval under subsection (1)(b) only if the chief executive considers an EIS is appropriate for the project.

(4) The chief executive must, within 10 business days after the decision is made, give the applicant a written notice stating the decision, and the reasons for it.

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Chapter 4A Great Barrier Reef protection measures

Part 1 Preliminary

74 Purpose of chapter

The purpose of this chapter is to provide for measures to improve the quality of the water entering the Great Barrier Reef to—

(a) support the outstanding universal value of the Great Barrier Reef for which the reef was inscribed on the World Heritage List; and

(b) protect and enhance the biological integrity and diversity of the aquatic ecosystems of the Great Barrier Reef, including—

(i) the coral reef, mangrove and seagrass ecosystems of the reef; and

(ii) the aquatic ecosystems of the river basins from which water enters the Great Barrier Reef; and

(c) improve the health and resilience of the aquatic ecosystems of the reef so they are better able to withstand and recover from disturbances.

75 What is the *Great Barrier Reef catchment*

(1) The ***Great Barrier Reef catchment*** is the area shown on a map prescribed by regulation as the Great Barrier Reef catchment.

(2) Each part of the Great Barrier Reef catchment shown as a river basin on the map is a ***river basin***.

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76 Other definitions for chapter

In this chapter—

agricultural ERA see section 79.

agricultural ERA standard see section 81(1).

carries out, an agricultural ERA, see section 80.

Great Barrier Reef catchment see section 75(1).

river basin see section 75(2).

Part 2 Environmental protection policy

77 Environmental protection policy must set objectives for reduced contaminant loads

(1) This section applies in relation to the entry of the following contaminants to the water of the Great Barrier Reef because of human activity carried out on land in the Great Barrier Reef catchment—

(a) dissolved inorganic nitrogen in the water;

(b) sediment suspended in the water.

(2) The Minister must ensure an environmental protection policy sets an objective to reduce the load of each of the contaminants entering the waters from each river basin in the catchment.

(3) The objective must be to reduce each of the loads to a stated limit, over a stated period, that is consistent with achieving the improvement in the quality of the water entering the Great Barrier Reef stated in the purpose of this chapter.

(4) This section does not limit the matters relating to the quality of the water entering the Great Barrier Reef that may be dealt with in an environmental protection policy.

(5) In this section—

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load, of a contaminant that enters water, means the total mass of the contaminant that enters the water in a year.

78 Objectives set in policy must be reviewed every 5 years

(1) The Minister must review an environmental protection policy, to the extent the policy sets an objective mentioned in section 77(2), at least once—

(a) in the period of 5 years after the policy is made; and

(b) in each subsequent 5-year period.

(2) A review must be started during a period mentioned in subsection (1) and completed within 1 year.

Part 3 Requirements for carrying out agricultural ERAs

79 What is an *agricultural ERA*

(1) An ***agricultural ERA*** is any of the following activities carried out, on a commercial basis, on land in the Great Barrier Reef catchment—

(a) cattle grazing;

(b) horticulture;

Example—

commercial cultivation of bananas

(c) cultivation of another crop.

Example—

commercial cultivation of sugarcane or grains

(2) For subsection (1), all the land in a lot is taken to be in the Great Barrier Reef catchment if more than 75% of the lot, or 20,000ha of land in the lot, is in the catchment.

(3) In this section—

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lot means—

(a) a lot under the *Land Title Act 1994*; or

(b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

80 Who *carries out* an agricultural ERA

(1) A person ***carries out*** an agricultural ERA if the person carries out the activity on land—

(a) of which the person is the owner; or

(b) under an arrangement about the use of the land with the owner of the land.

(2) Also, a person ***carries out*** an agricultural ERA if the person is employed or otherwise engaged by a person mentioned in subsection (1) to oversee the carrying out of the agricultural ERA on the other person's behalf.

81 What is an *agricultural ERA standard*

(1) An ***agricultural ERA standard*** is an ERA standard for an agricultural ERA that states it is an agricultural ERA standard.

Note—

See section 318 for the chief executive's power to make an ERA standard.

(2) The purpose of an agricultural ERA standard is to ensure the agricultural ERA to which the standard relates is carried out in a way that best achieves—

(a) the purpose of this chapter; and

(b) the objective of preventing contaminants entering, or minimising the amount of contaminants that enter, the water of the Great Barrier Reef because of the agricultural ERA being carried out on land in the Great Barrier Reef catchment; and

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Examples of contaminants that may enter the water of the Great Barrier Reef because of an agricultural ERA—

nutrients, other chemicals, sediment

(c) an objective set by an environmental protection policy under section 77.

(3) Without limiting section 318, an agricultural ERA standard may include a standard condition—

(a) about the use of water, nutrients, agricultural chemical products or other substances in carrying out the agricultural ERA; or

(b) that requires compliance with a prescribed methodology for—

(i) working out the amount of a nutrient to be applied to a crop, plant or soil without exceeding the needs of the crop or plant, or a plant in the soil; or

(ii) conducting tests related to carrying out the agricultural ERA, including, for example, tests of soil, water or plants and the intervals at which the tests must be carried out; or

(iii) another matter related to carrying out the agricultural ERA; or

(c) about the way land, the features of land and farming infrastructure are designed and used, and farming operations are undertaken, to carry out the agricultural ERA.

Examples of features of land that may be designed and used to carry out an agricultural ERA—

the slope of the land, land banks, drainage channels

(4) The chief executive must review an agricultural ERA standard at least once—

(a) in the period of 5 years after the standard is made; and

(b) in each subsequent 5-year period.

(5) A review must be started during a period mentioned in subsection (4) and completed within 1 year.

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(6) In this section—

prescribed methodology, for a matter, means a methodology for the matter prescribed by regulation for this section.

82 Offence to contravene agricultural ERA standard

(1) This section applies if an agricultural ERA standard applies to an agricultural ERA.

(2) A person who carries out the agricultural ERA must not contravene the agricultural ERA standard.

Maximum penalty—

(a) if the offence is committed wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

(3) In a proceeding for an offence against subsection (2), it is a defence for a person to prove that—

(a) the person is accredited under a recognised accreditation program for the agricultural ERA; and

(b) the person's conduct that is alleged to constitute the offence does not contravene the recognised accreditation program.

Part 4 Agricultural ERA advice

83 Definitions for part

In this part—

adviser means a person who gives advice about carrying out an agricultural ERA—

(a) as a service for reward; or

Example—

An agronomist gives advice about the amount of a nutrient needed for a banana crop and charges a fee for giving the advice.

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(b) in connection with the provision of goods or another service for reward.

Examples—

1 A fertiliser distributor or agent gives advice about the amount of a nutrient needed for a sugarcane crop in connection with selling fertiliser for the crop.

2 A hydrologist gives advice about the amount of water needed for sugarcane crops in connection with providing a service of designing and installing an irrigation system for the crop.

give advice includes make a recommendation.

tailored advice, about carrying out an agricultural ERA, see section 84.

84 Meaning of *tailored advice* about carrying out an agricultural ERA

(1) Advice about carrying out an agricultural ERA is ***tailored advice*** if the advice—

(a) relates to a standard condition in an agricultural ERA standard that applies to the agricultural ERA; and

(b) is tailored to consider and address—

(i) the particular objectives that the person carrying out the agricultural ERA wants to achieve by carrying it out; and

(ii) the particular circumstances under which the agricultural ERA is being carried out.

(2) For subsection (1), it does not matter whether the advice is given as a result of a test conducted in relation to soil, water or a plant.

85 Tailored advice must not be false or misleading

An adviser must not give tailored advice about carrying out an agricultural ERA that the adviser knows, or ought reasonably

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to know, is false or misleading in a material particular to a person—

(a) who carries out the agricultural ERA; or

(b) who is acting on behalf of another person who carries out the agricultural ERA.

Maximum penalty—600 penalty units.

86 Record of tailored advice

(1) This section applies if an adviser gives tailored advice about carrying out an agricultural ERA to a person—

(a) who carries out the agricultural ERA; or

(b) who is acting on behalf of another person who carries out the agricultural ERA.

(2) The adviser must, unless the adviser has a reasonable excuse—

(a) prepare a record that contains the information stated in subsection (3) about the tailored advice within 5 business days after giving the advice; and

(b) give a copy of the record to the person; and

(c) keep the record, or a copy of the record, for at least 6 years.

(3) For subsection (2), the information is—

(a) the adviser's name and ACN or ABN (if any); and

(b) the person's name and ACN or ABN (if any); and

(c) if the person is acting on behalf of another person who carries out the agricultural ERA—the name and ACN or ABN (if any) of the person who carries out the agricultural ERA; and

(d) the location of the land on which the agricultural ERA is being carried out; and

(e) the day the advice was given; and

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(f) a summary of the advice given that includes the details prescribed by regulation.

Examples of details that may be prescribed—

- the fertiliser product recommended for use
- the recommended rate for the fertiliser product to be applied
- measures recommended to control sediment and erosion

Part 5 Great Barrier Reef water quality offsets

87 Definitions for part

(1) A ***Great Barrier Reef water quality offset*** is an activity—

(a) carried out to counterbalance a residual impact of a relevant activity; and

(b) carried out on land on which the relevant activity is carried out or on other land in the Great Barrier Reef catchment; and

(c) that complies with an environmental offsets policy for a Great Barrier Reef water quality offset.

(2) A ***residual impact*** of a relevant activity is the presence of a restricted contaminant in water in a river basin in the Great Barrier Reef catchment that—

(a) was released into the water because of the relevant activity; and

(b) remains, or will or is likely to remain, (whether temporarily or permanently) despite on-site mitigation measures for the activity.

(3) A ***Great Barrier Reef water quality offset condition*** for a relevant activity is a condition that—

(a) requires a Great Barrier Reef water quality offset to be undertaken; or

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Examples—

action to rehabilitate a degraded riverbank, construct a wetland or establish native habitat across a number of properties

(b) otherwise relates to an environmental offset.

Example—

payment of a financial settlement offset

(4) The Minister may recommend to the Governor in Council the making of a regulation prescribing a contaminant to be a restricted contaminant only if satisfied that, if released into water entering the Great Barrier Reef, the contaminant is likely to—

(a) have an adverse impact on the quality of the water entering the reef; and

(b) be contrary to achieving the purpose of this chapter.

(5) In this section—

environmental offsets policy see the *Environmental Offsets Act 2014*, section 12.

on-site mitigation measure, for a relevant activity, means a measure undertaken on land on which the activity is carried out, to avoid or minimise the release of a restricted contaminant into water in a river basin in the Great Barrier Reef catchment because of the activity being carried out on the land.

relevant activity means a prescribed ERA, or resource activity, carried out on land in the Great Barrier Reef catchment.

restricted contaminant means a contaminant prescribed as a restricted contaminant for this section.

88 Application of Environmental Offsets Act 2014 to Great Barrier Reef water quality offsets

(1) The *Environmental Offsets Act 2014* applies in relation to a Great Barrier Reef water quality offset condition and an

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environmental offsets policy for a Great Barrier Reef water quality offset as if—

(a) a reference in that Act to an environmental offset were a reference to a Great Barrier Reef water quality offset; and

(b) a reference in that Act to an environmental offset condition were a reference to a Great Barrier Reef water quality offset condition; and

(c) a reference in that Act to a significant residual impact were a reference to a residual impact; and

(d) a reference in that Act to a prescribed activity were a reference to a relevant activity under this section; and

(e) a reference in that Act to a prescribed environmental matter were a reference to a river basin in the Great Barrier Reef catchment; and

(f) a reference in that Act to maintaining the viability of a prescribed environmental matter were, in relation to the prescribed environmental matter mentioned in paragraph (e), a reference to maintaining or improving the quality of the water entering the Great Barrier Reef from a river basin in the Great Barrier Reef catchment.

(2) In this section—

environmental offsets policy see the *Environmental Offsets Act 2014*, section 12.

relevant activity see section 87(5).

Part 6 General

89 Regulation-making power for particular records and returns

(1) A regulation may be made under section 580(2)(b) applying to—

(a) a record or return relating to—

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(i) the sale of a fertiliser product or agricultural chemical; or

(ii) the application of a fertiliser product or agricultural chemical; or

(iii) a soil test; or

(iv) a crop yield; and

(b) a person involved in the production, manufacture, distribution, supply or use of an agricultural ERA product, fertiliser product or agricultural chemical.

(2) In this section—

agricultural ERA product means a product from carrying out an agricultural ERA.

fertiliser product means a product that is, or contains, nitrogen, phosphorous or another plant nutrient.

Chapter 5 Environmental authorities, PRC plans and environmentally relevant activities

Part 1 Preliminary

Division 1 Key definitions for chapter 5

106 What is a *prescribed ERA*

A ***prescribed ERA*** is an environmentally relevant activity prescribed under section 19.

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107 What is a *resource activity*

A ***resource activity*** is an activity that involves—

(a) a geothermal activity; or

(b) a GHG storage activity; or

(c) a mining activity; or

(d) a petroleum activity.

108 What is a *geothermal activity*

A ***geothermal activity*** is an activity that, under the Geothermal Act, is an authorised activity for a geothermal tenure.

109 What is a *GHG storage activity*

A ***GHG storage activity*** is an activity that, under the GHG storage Act, is an authorised activity for a GHG authority under that Act.

110 What is a *mining activity*

A ***mining activity*** is—

(a) an activity that is an authorised activity for a mining tenement under the Mineral Resources Act; or

(b) another activity that is authorised under an approval under the Mineral Resources Act that grants rights over land.

111 What is a *petroleum activity*

A ***petroleum activity*** is—

(a) an activity that, under the *Petroleum Act 1923*, is an authorised activity for a 1923 Act petroleum tenure under that Act; or

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(b) an activity that, under the P&G Act, is an authorised activity for a petroleum authority under that Act; or

(c) exploring for, exploiting or conveying petroleum resources under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

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.

112 Other key definitions for ch 5

In this chapter—

application stage, for an application, means the stage of the assessment process carried out for the application under part 2.

decision stage, for an application, means the stage of the assessment process carried out for the application under part 5.

eligibility criteria, for an environmentally relevant activity, means eligibility criteria that are in effect for the activity under—

(a) an ERA standard; or

(b) section 707A or 707B.

eligible ERA means an environmentally relevant activity that complies with the eligibility criteria in effect for the activity.

ERA project means a prescribed ERA project or a resource project.

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Great Barrier Reef catchment waters means water in—

(a) a river in the Great Barrier Reef catchment; or

(b) a tributary of a river mentioned in paragraph (a).

ineligible ERA means an environmentally relevant activity that is not an eligible ERA.

information stage, for an application, means the stage of the assessment process carried out for the application under part 3.

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.

notification stage, for an application, means the stage of the assessment process carried out for the application under part 4.

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

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(b) is approved under chapter 5, part 5, division 2, with or without conditions.

prescribed ERA project means all prescribed ERAs carried out, or proposed to be carried out, as a single integrated operation.

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).

resource project means resource activities carried out, or proposed to be carried out, under 1 or more resource tenures, in any combination, as a single integrated operation.

single integrated operation see section 113.

stable condition, for land, see section 111A.

underground water rights means any of the following—

(a) underground water rights within the meaning of the *Mineral Resources Act 1989*;

(b) underground water rights within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*;

(c) underground water rights within the meaning of the *Petroleum Act 1923*, section 87(3).

Division 2 Single integrated operations

113 Single integrated operations

Environmentally relevant activities are carried out as a ***single integrated operation*** if—

(a) the activities are carried out under the day-to-day management of a single responsible individual, for example, a site or operations manager; and

(b) the activities are operationally interrelated; and

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(c) the activities are, or will be, carried out at 1 or more places; and

(d) the places where the activities are carried out are separated by distances short enough to make feasible the integrated day-to-day management of the activities.

Division 3 Stages and application of assessment process

114 Stages of assessment process

(1) The assessment process for applications for environmental authorities involve the following possible stages—

- application stage
- information stage
- notification stage
- decision stage.

(2) Not all stages, or all parts of a stage, apply to all applications.

114A Application of assessment process for proposed PRC plans

(1) This section applies—

(a) if there is a proposed PRC plan for a site-specific application; and

(b) for a proposed PRC plan that did not accompany the site-specific application—from when the proposed PRC plan is submitted for the application.

(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.

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Division 4 Relationship with the Planning Act

115 Development application taken to be application for environmental authority in particular circumstances

(1) This section applies if—

(a) a development application is made for a development permit for a material change of use of premises under the Planning Act; and

(b) the material change of use of premises—

(i) is for a prescribed ERA; and

(ii) is categorised as assessable development under a regulation made under the Planning Act.

(2) The development application is taken to also be an application for an environmental authority for the prescribed ERA.

(3) However, parts 2, other than division 2, to 4 do not apply to the application for the environmental authority.

(4) A properly made submission under the Planning Act about the development application is, to the extent it relates to the prescribed ERA, taken to be a properly made submission about the application for the environmental authority.

(5) If the development application lapses or is changed or withdrawn under the Planning Act, the application for an environmental authority for the prescribed ERA is also taken to have lapsed or been changed or withdrawn.

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Part 2 Application stage

Division 1 Preliminary

116 Who may apply for an environmental authority

(1) A person may apply for an environmental authority to carry out 1 or more environmentally relevant activities.

Note—

See also section 426 (Environmental authority required for particular environmentally relevant activities).

(2) An application under subsection (1) may also be made jointly by 2 or more persons.

(3) This section is subject to sections 117 to 120.

117 Restriction for applications for resource activities

A person may apply for an environmental authority for a resource activity only if the person is the applicant for a relevant tenure for the resource activity.

118 Single application required for ERA projects

(1) This section applies if a person proposes to carry out environmentally relevant activities as an ERA project.

(2) The person may only make a single application for a single environmental authority for all relevant activities that form the project.

119 Single environmental authority required for ERA projects

(1) This section applies if an environmental authority has been issued for an ERA project.

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(2) The holder of the authority can not apply for a separate environmental authority for additional activities proposed to be carried out as part of the project.

(3) Subsection (2) applies whether or not the additional activity is a resource activity that is proposed to be carried out under another relevant tenure as part of the project.

(4) This section does not prevent the holder from applying to amend or transfer the environmental authority, or amalgamate the authority with another authority of the holder.

120 Application for environmental authority can not be made in particular circumstances

(1) An application for an environmental authority for a prescribed ERA can not be made if, under the Planning Act—

(a) a development permit for a material change of use of premises relating to the activity is necessary under the Planning Act for the carrying out of the activity; and

(b) neither of the following applications has been made—

(i) a development application for a development permit mentioned in paragraph (a);

(ii) a change application to change a development permit to authorise a material change of use of premises relating to the activity, if the permit does not already authorise the material change of use.

(2) Also, an application for an environmental authority can not be made if—

(a) it is for a prescribed ERA that is an extractive activity; and

(b) it relates to the North Stradbroke Island Region; and

(c) it involves dredging or extracting more than 10,000 tonnes of material a year.

(3) Also, an application for an environmental authority for a prescribed ERA can not be made if—

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(a) the activity is to be carried out on a parcel of land within a State development area; and

(b) the approved development scheme under the State Development Act for the State development area states that the development of the parcel of land for the prescribed ERA is SDA assessable development under that Act; and

(c) either of the following apply—

(i) the applicant has not applied for an SDA approval for the development under the State Development Act, section 84D;

(ii) the SDA approval for the development under the State Development Act has lapsed under section 84H of that Act.

(4) In this section—

extractive activity means an activity prescribed under a regulation as an extractive activity.

North Stradbroke Island Region see the *North Stradbroke Island Protection and Sustainability Act 2011*, section 5.

State development area see the State Development Act, schedule 2.

Division 2 Types of applications

121 Types of applications

The types of applications for an environmental authority are—

(a) standard applications; and

(b) variation applications; and

(c) site-specific applications.

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122 What is a *standard application*

(1) An application for an environmental authority is a ***standard application*** if—

(a) the environmental authority is to be subject to the standard conditions for the authority or the environmentally relevant activity for the authority; and

(b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

(2) An application for an environmental authority, for an environmentally relevant activity that is carried out as part of a coordinated project, is also a ***standard application*** if—

(a) there are Coordinator-General's conditions—

(i) that relate to the activity the subject of the application; and

(ii) that are the same as the standard conditions for the authority or the activity; and

(b) all proposed environmentally relevant activities for the authority are eligible ERAs.

123 What is a *variation application*

(1) An application for an environmental authority is a ***variation application*** if—

(a) the application seeks to change the standard conditions for the environmental authority or the environmentally relevant activity for the authority; and

(b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

(2) An application for an environmental authority, for an environmentally relevant activity that is carried out as part of a coordinated project, is also a ***variation application*** if—

(a) there are Coordinator-General's conditions—

(i) that relate to the activity the subject of the application; and

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(ii) that are not the same as the standard conditions for the authority or the activity; and

(b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

124 What is a *site-specific application*

An application for an environmental authority is a ***site-specific application*** if any of the proposed environmentally relevant activities for the authority are ineligible ERAs.

Division 3 Applying for environmental authorities and requirements for PRC plans

125 Requirements for applications generally

(1) An application for an environmental authority must—

(a) be made to the administering authority; and

(b) be made in the approved form; and

(c) describe all environmentally relevant activities for the application; and

(d) describe the land on which each activity will be carried out; and

(e) be accompanied by the fee prescribed under a regulation; and

(f) if 2 or more persons (***joint applicants***) jointly make the application—nominate 1 joint applicant as the principal applicant; and

(g) state whether the application is—

(i) a standard application; or

(ii) a variation application; or

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(iii) a site-specific application; and

(h) state whether the applicant is a registered suitable operator; and

(i) if a development permit under the Planning Act, or an SDA approval under the State Development Act, is required under either of those Acts for carrying out the environmentally relevant activities for the application—describe the permit or approval; and

(j) if the application is a standard or variation application—include a declaration that each relevant activity complies with the eligibility criteria; and

(k) if the application is a variation application—

(i) for a variation application under section 123(1)—state the standard conditions for the activity or authority the applicant seeks to change; or

(ii) for a variation application under section 123(2)—state the standard conditions that are not the same as the Coordinator-General's conditions; and

(l) if the application is a variation or site-specific application—

(i) include an assessment of the likely impact of each relevant activity on the environmental values, including—

(A) a description of the environmental values likely to be affected by each relevant activity; and

(B) details of any emissions or releases likely to be generated by each relevant activity; and

(C) a description of the risk and likely magnitude of impacts on the environmental values; and

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(D) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and

(E) if paragraph (n) does not apply—details of how the land the subject of the application will be rehabilitated after each relevant activity ceases; and

(ii) include a description of the proposed measures for minimising and managing waste generated by each relevant activity; and

(iii) include details of any site management plan that relates to the land the subject of the application; and

(m) if the application is for a prescribed ERA—state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant; and

(n) if the application is a site-specific application for a mining activity relating to a mining lease—be accompanied by a proposed PRC plan; and

(o) include any other document relating to the application prescribed under a regulation.

(2) Despite subsection (1)(l), if the application is a variation application under section 123(1), it need only include the matters mentioned in that subsection to the extent it seeks to change the standard conditions for the activity or authority.

(3) Subsection (1)(l) does not apply for an application if—

(a) any of the following applies—

(i) the EIS process for an EIS for each relevant activity the subject of the application has been completed;

(ii) the Coordinator-General has, under the State Development Act, section 34D, evaluated an EIS for each relevant activity the subject of the

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application and stated conditions that relate to each relevant activity;

(iii) the Coordinator-General has, under the State Development Act, section 34L, evaluated an IAR for each relevant activity the subject of the application and stated conditions that relate to each relevant activity; and

(b) an assessment of the environmental risks of each relevant activity would be the same as the assessment in the EIS mentioned in paragraph (a)(i), or the evaluation mentioned in paragraph (a)(ii) or (iii), if completed.

(4) Also, subsection (1)(l) does not apply for a variation application under section 123(2) if the application seeks only to apply the Coordinator-General's conditions.

(5) Despite subsection (1), if the application is a variation or site-specific application for the prescribed ERA mentioned in the *Environmental Protection Regulation 2019*, schedule 2, section 13A—

(a) it need only include the matters mentioned in subsection (1)(l)(i)(A) to (D), (ii) and (iii) to the extent the matters relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef or Great Barrier Reef catchment waters; and

(b) subsection (1)(l)(i)(E) does not apply for the application.

(6) Subsection (1)(l) does not apply for a variation application or site-specific application, and subsection (1)(n) does not apply for a site-specific application for a mining activity relating to a mining lease, if—

(a) the chief executive has, under chapter 3, part 2 or 3, approved the voluntary preparation of an EIS for the project the subject of the application and the applicant has—

(i) started the EIS process for the application; or

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(ii) stated in the application that the applicant will prepare an EIS under chapter 3, part 1; or

(b) the chief executive has, under chapter 3, part 3, decided that an EIS is required for the application; or

(c) the Coordinator-General has, under the State Development Act, section 26(1), declared that the project the subject of the application is a coordinated project for which an EIS or IAR under that Act is required.

(7) Subsection (8) applies if—

(a) an application for a prescribed ERA is accompanied by evidence showing the main purpose of applying for the environmental authority is to conduct research into, or test, technology or processes relating to an environmentally relevant activity for which information mentioned in subsection (1)(l)(i) and (ii) is not available; and

(b) the application states that the term of the environmental authority applied for is 3 years or less.

(8) Despite subsection (1), the application need not include the matters mentioned in subsection (1)(l)(i) and (ii) to the extent the information is not available.

126 Requirements for site-specific applications—CSG activities

(1) A site-specific application for a CSG activity must also state the following—

(a) the quantity of CSG water the applicant reasonably expects will be generated in connection with carrying out each relevant CSG activity;

(b) the flow rate at which the applicant reasonably expects the water will be generated;

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(c) the quality of the water, including changes in the water quality the applicant reasonably expects will happen while each relevant CSG activity is carried out;

(d) the proposed management of the water including, for example, the use, treatment, storage or disposal of the water;

(e) the measurable criteria (the ***management criteria***) against which the applicant will monitor and assess the effectiveness of the management of the water, including, for example, criteria for each of the following—

(i) the quantity and quality of the water used, treated, stored or disposed of;

(ii) protection of the environmental values affected by each relevant CSG activity;

(iii) the disposal of waste, including, for example, salt, generated from the management of the water;

(f) the action proposed to be taken if any of the management criteria are not complied with, to ensure the criteria will be able to be complied with in the future.

(2) The proposed management of the water can not provide for using a CSG evaporation dam in connection with carrying out a relevant CSG activity unless—

(a) the application includes an evaluation of—

(i) best practice environmental management for managing the CSG water; and

(ii) alternative ways for managing the water; and

(b) the evaluation shows there is no feasible alternative to a CSG evaporation dam for managing the water.

(3) This section does not apply for a site-specific application for a CSG activity if—

(a) the Coordinator-General has—

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(i) evaluated an EIS for the CSG activity under the State Development Act, section 34D; or

(ii) evaluated an IAR for the CSG activity under the State Development Act, section 34L; and

(b) the Coordinator-General has stated conditions for each relevant activity the subject of the application; and

(c) an assessment of the environmental risks of the activity would be the same as the evaluation mentioned in paragraph (a), if completed.

126A Requirements for site-specific applications—particular resource projects and resource activities

(1) This section applies to a site-specific application, involving the exercise of underground water rights, for—

(a) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or

(b) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease.

(2) The application must also state the following—

(a) any proposed exercise of underground water rights during the period in which resource activities will be carried out under the relevant tenure;

(b) the areas in which underground water rights are proposed to be exercised;

(c) for each aquifer affected, or likely to be affected, by the exercise of underground water rights—

(i) a description of the aquifer; and

(ii) an analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers and surface water; and

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(iii) a description of the area of the aquifer where the water level is predicted to decline because of the exercise of underground water rights; and

(iv) the predicted quantities of water to be taken or interfered with because of the exercise of underground water rights during the period in which resource activities are carried out;

(d) the environmental values that will, or may, be affected by the exercise of underground water rights and the nature and extent of the impacts on the environmental values;

(e) any impacts on the quality of groundwater that will, or may, happen because of the exercise of underground water rights during or after the period in which resource activities are carried out;

(f) strategies for avoiding, mitigating or managing the predicted impacts on the environmental values stated for paragraph (d) or the impacts on the quality of groundwater mentioned in paragraph (e).

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 a site-specific application for a mining activity relating to a mining lease 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—

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(a) be in the approved form; and

(b) describe the following—

(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

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(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 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—

(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—

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(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 mentioned in section 126E, 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—

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(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 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.

126E Public interest considerations for s 126D

For section 126D(2)(b)(ii), each of the following matters is a public interest consideration—

(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

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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;

(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.

127 When application is a *properly made application*

An application for an environmental authority under section 116(1) is a ***properly made application*** if it complies with this division.

Division 4 Notices about not properly made applications

128 Notice about application that is not a properly made application

(1) This section applies if an application is not a properly made application.

(2) The administering authority must, within 10 business days after receiving the application, give the applicant a notice stating the following—

(a) it is not a properly made application;

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(b) the reasons the administering authority is satisfied it is not a properly made application;

(c) the action the administering authority is satisfied the applicant must take for the application to be a properly made application;

(d) the period of at least 20 business days after the notice is given within which the applicant must give written notice to the administering authority that the action has been taken;

(e) that, if the applicant does not give the notice mentioned in paragraph (d) within the stated period, the application will lapse under section 129.

129 When application lapses

(1) This section applies if the applicant is given a notice under section 128(2).

(2) The application lapses if the applicant does not, within the stated period or the further period agreed between the administering authority and the applicant—

(a) take the action mentioned in section 128(2)(c); and

(b) give the administering authority written notice that the action has been taken.

Division 5 Joint applicants

130 Nomination of principal applicant

(1) This section applies if joint applicants jointly apply for 1 or more environmental authorities.

(2) The person nominated in the application as the principal applicant for the application may, for all applicants for the application, give to the administering authority a notice or other document relating to the application or a proposed PRC plan for the application.

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(3) The administering authority may—

(a) give a notice or other document relating to the application or a proposed PRC plan for the application to all the applicants, by giving it to the principal applicant nominated in the application; or

(b) make a requirement under this chapter relating to the application or a proposed PRC plan for the application of all the applicants, by making it of the principal applicant nominated in the application.

Division 6 Changing applications

Subdivision 1 Preliminary

131 Meaning of *minor change*

(1) A ***minor change***, for an application or proposed PRC plan, is any of the following changes to the application or plan—

(a) a change that merely corrects a mistake about the name or address of the applicant;

(b) a change of applicant;

(c) a change that merely corrects a spelling or grammatical error;

(d) a change that the administering authority is satisfied would not adversely affect the ability of the authority to assess the changed application.

(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.

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Subdivision 2 Procedure for changing applications

132 Changing application or proposed PRC plan

(1) Before an application is decided or a proposed PRCP schedule is approved, the applicant may change the application or proposed PRC plan for the schedule by giving the administering authority—

(a) written notice of the change; and

(b) the fee prescribed under a regulation.

(2) An applicant can not change an application or proposed PRC plan if the change would, if the application were remade including the change, result in the application not being a properly made application.

(3) Subsection (2) does not apply to the applicant if the applicant takes the action that would be necessary to make the application a properly made application if it were remade.

(4) If the change to the application is, or includes, a change of applicant, the notice of the change—

(a) may be given to the administering authority by the person proposing to become the applicant; and

(b) must be accompanied by the written consent of the person who is the applicant immediately before the change.

Subdivision 3 Changed applications—effect on assessment process

133 Effect on assessment process—minor changes and agreed changes

(1) The assessment process does not stop for a changed application or proposed PRC plan if—

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(a) the change is a minor change of the application or plan; or

(b) the administering authority gives its written agreement to the change.

(2) For the changed application or proposed PRC plan, the notification stage does not again apply, and is not required to restart, if—

(a) the notification stage applied to the original application or plan; and

(b) the change was made during the notification stage or after the notification stage ended.

134 Effect on assessment process—other changes

(1) Subsection (2) applies to a changed application or proposed PRC plan if—

(a) the change is not a minor change; and

(b) the administering authority has not given its written agreement to the change.

(2) The assessment process stops on the day the notice of the change is received by the administering authority and starts again from the end of the application stage.

(3) Subsection (4) applies to a changed application or proposed PRC plan if—

(a) the assessment process has stopped under subsection (2) for the application or proposed PRC plan; and

(b) the notification stage applied to the original application; and

(c) the change was made during the notification stage or after the notification stage ended.

(4) The notification stage must be repeated unless the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject

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of the change, if the notification stage were to apply to the change.

Division 7 Withdrawing applications

135 Withdrawing an application

At any time before an environmental authority is issued, the applicant may withdraw the application by giving written notice of the withdrawal to the administering authority.

Division 8 End of application stage

136 When does application stage end

The application stage for an application ends—

(a) if the applicant is given a notice under section 128(2)—the day the administering authority receives the notice mentioned in section 128(2)(d); or

(b) otherwise, the earlier of the following—

(i) if the administering authority is satisfied the requirements under the application stage have been complied with—when the administering authority becomes satisfied the requirements have been complied with;

(ii) 10 business days after the administering authority receives the application.

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Part 3 Information stage

Division 1 Preliminary

137 Purpose of information stage

The information stage for an application gives the administering authority the opportunity to ask the applicant for further information needed to assess the application.

138 When information stage applies

Subject to section 139, the information stage applies to—

(a) variation applications; and

(b) site-specific applications.

139 Information stage does not apply if EIS or IAR process complete

(1) This section applies if—

(a) any of the following applies—

(i) the EIS process for an EIS for each relevant activity the subject of the application has been completed and the EIS assessment report relating to each relevant activity has not lapsed under section 59A;

(ii) in evaluating an EIS under the State Development Act, the Coordinator-General has stated conditions mentioned in section 34D(3)(b) of that Act that relate to each relevant activity the subject of the application;

(iii) in evaluating an IAR under the State Development Act, the Coordinator-General has stated conditions mentioned in section 34L(3)(b) of that Act that

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relate to each relevant activity the subject of the application; and

(b) since the EIS mentioned in paragraph (a)(i) or the evaluation mentioned in paragraph (a)(ii) or (iii) 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, none of the following has changed—

(A) a post-mining land use or non-use management area;

(B) achieving a stable condition for land;

(C) the way a post-mining land use will be achieved, or a non-use management area will be managed, to an extent likely to result in significantly different impacts on environmental values compared to the impacts on the values under the EIS or IAR mentioned in paragraph (a);

(D) the day by which rehabilitation of land to a stable condition will be achieved.

(2) However—

(a) this section applies for a variation application or site-specific application only if the matters mentioned in section 125(1)(l) have been provided to the administering authority (whether with the application, through the EIS or in another way); and

(b) this section applies for a site-specific application for a mining activity relating to a mining lease only if there is a proposed PRC plan for the application.

(3) The information stage does not apply to the application.

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Division 2 Information requests

140 Information request to applicant

(1) The administering authority may ask the applicant, by written request (an ***information request***), to give further information needed to assess the application.

(2) An information request must state that the application will lapse unless the applicant gives the administering authority a response under section 146.

141 Content of information request

(1) The administering authority must state in an information request the period (the ***information response period***) within which the applicant must give a response under section 146.

(2) The information response period must be—

(a) if an EIS is required for the application under section 143(2)—a period of at least 2 years after the final terms of reference are given to the proponent under section 46(2); or

(b) otherwise—a period of at least 6 months after the giving of the information request.

143 EIS may be required

(1) This section applies for a site-specific application for a resource activity if—

(a) the application does not relate to a coordinated project; and

(b) any of the following apply—

(i) the chief executive has granted an approval for the applicant to voluntarily prepare an EIS under chapter 3, part 2 and the EIS process has not yet been completed under chapter 3, part 1;

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(ii) an EIS process for an EIS for the application has otherwise not been completed under chapter 3, part 1;

(iii) an EIS assessment report relating to the application has lapsed under section 59A.

(2) Without limiting section 140(1), the administering authority may include in an information request—

(a) if subsection (1)(b)(i) applies—a requirement that the EIS process be completed and an EIS be provided for the application; or

(b) otherwise—a requirement that the applicant complete an EIS process and provide an EIS for the application.

(3) If subsection (1)(b)(ii) or (iii) applies, in deciding whether an EIS is required for an application, the administering authority must consider the standard criteria.

(4) A requirement under subsection (2) ceases to have effect if a relevant activity or tenure for the application is, or is included in, a coordinated project.

(5) If the chief executive has made a decision under section 73C that an EIS would not be required for an application for an environmental authority for a project, the administering authority must not require an applicant for an environmental authority for the project to provide an EIS for the application.

(6) Subsection (5) does not apply if the environmental risks of the activities proposed to be carried out under the project, and the way the activities are to be carried out, are different from the environmental risks and activities considered by the chief executive when making the decision under section 73C.

143A Proposed PRC plan required for particular applications

(1) This section applies for a site-specific application for a mining activity relating to a mining lease if there is no proposed PRC plan for the application.

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(2) Without limiting section 140(1), the administering authority must include in an information request a requirement that the applicant submit a proposed PRC plan for the application.

(3) The proposed PRC plan must comply with part 2, division 3.

144 When information request must be made

An information request must be made—

(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, but subject to subparagraphs (iii) and (iv)—20 business days after the day the application stage ends for the application;

(iii) if a proposed PRC plan is submitted before the end of the period mentioned in subparagraph (ii)—30 business days after the day the application stage ends for the application;

(iv) if a proposed PRC plan is submitted after the end of the period mentioned in subparagraph (ii) in response to an information request made in that period— 10 business days after the proposed PRC plan is submitted; or

(b) for a variation application—within 10 business days after the day the application stage ends for the application (also the ***information request period***).

145 Extending information request period

(1) The administering authority may, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.

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(2) Only 1 notice may be given by the administering authority under subsection (1) for the application and the notice must be given before the information request period ends.

(3) The information request period may be further extended if the applicant, at any time, gives written agreement to the extension.

Division 3 Responding to information request

146 Applicant responds to any information request

(1) If the applicant receives an information request from the administering authority, the applicant must respond by giving the authority—

(a) all of the information requested; or

(b) part of the information requested together with a written notice asking the authority to proceed with the assessment of the application; or

(c) a written notice—

(i) stating that the applicant does not intend to supply any of the information requested; and

(ii) asking the authority to proceed with the assessment of the application.

(2) Despite subsection (1), if the information request requires the applicant to provide an EIS for the application under section 143(2), the EIS process under chapter 3 must be completed and the EIS provided.

(3) Also, despite subsection (1), if the information request requires the applicant to submit a proposed PRC plan for the application under section 143A, a proposed PRC plan complying with part 2, division 3 must be submitted.

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147 Lapsing of applications if no response to information request

(1) An application lapses if the applicant does not comply with section 146 within—

(a) the information response period stated in the information request; or

(b) the further period agreed between the applicant and the administering authority.

(2) If the applicant asks the administering authority to agree to extend the information response period, the request must be made at least 10 business days before the last day of the information response period.

(3) The administering authority must, within 5 business days after receiving the request—

(a) decide whether to agree to the extension; and

(b) give an information notice of the decision.

Division 4 End of information stage

148 When does information stage end

The information stage ends when—

(a) if an information request has been made—the applicant has finished responding to the request and the administering authority has received the response; or

(b) if an information request has not been made, the earlier of the following—

(i) when the administering authority decides not to make an information request;

(ii) the information request period has ended.

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Part 4 Notification stage

Division 1 Preliminary

149 When notification stage applies

Subject to section 150, the notification stage applies to an application if—

(a) any part of the application is for a mining activity relating to a mining lease; or

(b) the application is a site-specific application and any part of the application is for a geothermal activity, GHG storage activity or petroleum activity.

150 Notification stage does not apply to particular applications

(1) This section applies to an application for an environmental authority if—

(a) any of the following applies—

(i) for an EIS under this Act—

(A) the EIS for each relevant activity the subject of the application has been publicly notified under section 51; and

(B) for a site-specific application for a mining activity relating to a mining lease—the public notification included notification of the proposed PRC plan for the application;

(ii) for an EIS under the State Development Act—

(A) the draft EIS for each relevant activity the subject of the application has been publicly notified under section 33 of that Act; and

(B) for a site-specific application for a mining activity relating to a mining lease—the

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public notification included notification of the proposed PRC plan for the application;

(iii) for an IAR under the State Development Act—

(A) the draft IAR for each relevant activity the subject of the application has been publicly notified under section 34H of that Act; and

(B) for a site-specific application for a mining activity relating to a mining lease—the public notification included notification of the proposed PRC plan for the application; and

(b) since the public notification mentioned in paragraph (a)—

(i) either—

(A) the environmental risks of the relevant activity and the way it will be carried out have not changed; or

(B) 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

(ii) for a proposed PRC plan mentioned in paragraph (a), neither of the following has changed—

(A) a post-mining land use or non-use management area;

(B) the day by which rehabilitation of land to a stable condition will be achieved.

(2) The notification stage does not apply to the application.

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(3) However, a properly made submission about the EIS or IAR mentioned in subsection (1) is taken to be a properly made submission about the application.

151 When notification stage can start

(1) The applicant may start the notification stage at any time after the application stage ends for the application.

(2) However, if the application is a site-specific application for a mining activity relating to a mining lease, the applicant may start the notification stage only if there is a proposed PRC plan for the application.

Division 2 Public notice

152 Public notice of application

(1) The applicant must give and publish a notice about the application (the ***application notice***).

(2) The application notice must be given and published—

(a) simultaneously or together with, and in the same way as, any public notice for an application under resource legislation for a relevant tenure for the application; or

(b) if public notice is not required to be given for an application under resource legislation for a relevant tenure for the application—

(i) in a newspaper circulating generally in the area where the relevant resource activity is proposed to be carried out; and

(ii) before the day that is 10 business days after the end of the information stage for the application; or

(c) in another way prescribed under a regulation.

(3) The administering authority may decide an additional or substituted way to give or publish the application notice if it

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gives the applicant an information notice about the decision before the application notice is given.

(4) This section is subject to section 159.

153 Required content of application notice

(1) An application notice must be in the approved form and state the following—

(a) a description of each relevant resource activity;

(b) the land on which each activity is to be carried out;

(c) for a standard or variation application—where copies of the standard conditions for the relevant activity or authority may be obtained;

(d) where the application documents may be inspected or accessed;

(e) where copies of, or extracts from, the application documents may be obtained;

(f) that any entity may make a submission to the administering authority about the application documents;

(g) the period (the ***submission period***) during which submissions may be given;

(h) how to make a properly made submission;

(i) another matter prescribed under a regulation.

(2) Also, subsection (3) applies if the process for an EIS, for a relevant activity the subject of the application, was notified before the notification stage for the application started.

(3) The application notice must state where, in the application documents mentioned in subsection (1)(d), information about the following changes between the EIS, since the EIS was notified, and the application documents, are shown—

(a) for an environmental authority—

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(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; and

(ii) the proposed changes to the way the relevant activity is to be carried out;

(b) for a proposed PRC plan notified with the EIS—

(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.

(4) This section is subject to section 159.

154 Submission period for application—mining activities

The submission period for an application for a mining activity must end on—

(a) if there is only 1 relevant mining tenure application—the last objection day under the Mineral Resources Act for the application; or

(b) if there is more than 1 relevant mining tenure application—the later of the last objection days under the Mineral Resources Act for the applications.

Note—

For the last objection day under the Mineral Resources Act, see section 252 of that Act.

155 Submission period for application—other resource activities

The submission period for an application for a resource activity other than a mining activity can not end before the later of the following—

(a) a day or time fixed by the administering authority before the notice is published;

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(b) 20 business days after the application notice is published under section 152.

156 Publication of application notice and documents on website

(1) This section applies for a site-specific application.

(2) The applicant must keep copies of all the following documents for the application available on a website—

(a) the application notice;

(b) the application documents;

(c) the response to any information request.

(3) A document mentioned in subsection (2) must be kept available on the website from the day the document is given to the administering authority until the end of the access period for the application.

(4) In this section—

access period see section 157(2).

157 Public access to application documents

(1) The administering authority must, for all of the access period—

(a) keep the application documents for the application open for inspection by members of the public during office hours on business days at—

(i) the authority's head office; or

(ii) the office of the authority located nearest to the land to which the application relates; or

(iii) other places the chief executive considers appropriate; and

(b) permit a person to take extracts from the application documents or, on payment of the appropriate fee to the

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authority, give the person a copy of the application documents, or a part of the application documents; and

(c) keep a copy of, or a link to, the application documents available on its website.

(2) In this section—

access period means the period that—

(a) starts the day after the application stage for the application ends; and

(b) ends on the earlier of the following—

(i) the day the application lapses or is withdrawn;

(ii) if the application is for a mining activity relating to a mining lease and the application is referred to the Land Court under section 185—the day a final decision about the application is made under section 194(2);

(iii) if the application is for a mining activity relating to a mining lease and the application is not referred to the Land Court—20 business days after the notice is given under section 181;

(iv) otherwise—the review date.

158 Declaration of compliance

(1) The applicant must give the administering authority a declaration about whether or not the applicant has complied with the following requirements (the ***public notice requirements***)—

(a) the notice requirements under sections 152 and 153;

(b) if the application is a site-specific application—the requirement under section 156 to make a copy of the documents mentioned in section 156(2) available on a website.

(2) The declaration must be given within 5 business days after the submission period ends.

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(3) A copy of the application notice must be attached to the declaration.

(4) The applicant is taken to have complied with the public notice requirements if—

(a) a declaration is given within the period mentioned in subsection (2); and

(b) the declaration states the applicant has complied with the requirements.

159 Substantial compliance may be accepted

(1) This section applies if the applicant—

(a) has not complied with the public notice requirements; or

(b) has given a declaration under section 158(1), but not within the period mentioned in section 158(2).

(2) The administering authority must, within 10 business days after receiving the declaration, decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

(3) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the public notice requirements.

(4) If the decision is that the application may proceed, the authority must, within 10 business days after the decision is made, give the applicant written notice of the decision.

(5) If the authority decides not to allow the application to proceed—

(a) any steps purportedly taken to comply with the public notice requirements are of no effect; and

(b) the authority must, within 10 business days after the decision is made—

(i) fix a substituted way to give or publish the application notice and give the applicant written notice of the substituted way; and

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(ii) fix a new submission period for the application and give the applicant written notice of the period; and

(iii) give the applicant an information notice about the decision.

(6) The stated substituted way to give or publish the application notice applies instead of the requirements for giving or publishing the notice under section 152.

(7) If the administering authority states a substituted way to give or publish the application notice, section 158 applies to the applicant as if—

(a) a reference to section 152 were a reference to the notice given under subsection (5)(b)(i); and

(b) a reference to the submission period were a reference to the submission period fixed under subsection (5)(b)(ii).

(8) Despite subsection (5)(a), if the administering authority decides not to allow the application to proceed, any properly made submissions for the application continue to have effect.

Division 3 Submissions about applications

160 Right to make submission

(1) An entity may, within the submission period, make a submission to the administering authority about the application or a proposed PRC plan for the application.

(2) However, for an application to which section 153(3) applies, an entity may, within the submission period, make a submission to the administering authority only about the following matters relating to the application—

(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

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(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.

161 Acceptance of submission

(1) The administering authority must accept a submission if it—

(a) is written or made electronically; and

(b) states the name and address of each submitter; and

(c) is made to the administering authority; and

(d) is received on or before the last day of the submission period; and

(e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

(2) A submission that complies with subsection (1) is a ***properly made submission***.

(3) The authority may accept a written submission even if it is not a properly made submission.

(4) Subsection (5) applies for an application if the process for an EIS, for a relevant activity the subject of the application, was notified before the notification stage for the application started.

(5) The authority need not accept any part of the submission that the authority considers is not relevant to the matters mentioned in section 160(2)(a) or (b).

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162 Amendment of submission

(1) If the administering authority has accepted a submission, the entity that made the submission may, by written notice, amend or replace the submission.

(2) A notice under subsection (1) must be given to the administering authority before the submission period ends.

163 Particular submissions apply for later applications

(1) This section applies if—

(a) an application is withdrawn; and

(b) within 1 year after the withdrawal, the applicant makes a later application; and

(c) each relevant activity for the later application is the same, or substantially the same, as the withdrawn application.

(2) Any properly made submission about the withdrawn application is taken to be a properly made submission about the later application.

Division 4 End of notification stage

164 When does notification stage end

The notification stage for an application to which the notification stage applies ends—

(a) if the applicant gives a declaration under section 158(1) within the period mentioned in section 158(2)—when the administering authority receives the declaration; or

(b) if paragraph (a) does not apply and the administering authority decides under section 159(2) to allow the application to proceed—when notice of the decision is given under section 159(4).

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Part 5 Decision stage

Division 1 Preliminary

165 When does decision stage start—general

(1) The decision stage for an application starts when all other stages applying to the application have ended.

(2) This section only applies for an application if sections 166 and 167 do not apply to the application.

166 When does decision stage start—application relating to development applications

(1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.

(2) The decision stage for the application for the environmental authority starts—

(a) if the administering authority or the planning chief executive is the assessment manager for the development application under the Planning Act—the day the decision-making period for the development application starts; or

(b) if the administering authority or the planning chief executive is a referral agency for the development application—the day the referral agency's response period for the application starts.

167 When does decision stage start—site-specific application relating to coordinated project

(1) This section applies for a site-specific application that relates to a coordinated project for which an EIS or IAR is required under the State Development Act.

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(2) The decision stage for the application starts on the later of the following days—

(a) the day the Coordinator-General, under the State Development Act, gives the proponent a copy of—

(i) if an EIS was prepared for the project—the Coordinator-General's report for the EIS; or

(ii) if an IAR was prepared for the project—the Coordinator-General's report for the IAR;

(b) the day after all other stages applying to the application have ended.

Division 2 Deciding application

Subdivision 1 Decision period

168 When decision must be made—generally

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

(a) if there is a proposed PRC plan for the application—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).

(3) Only 1 notice may be given under subsection (2) for the application and it must be given before the period ends.

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(4) However, the period may be further extended if the applicant, at any time before the decision is made, gives written agreement to the extension.

(5) If the applicant has also applied under section 318F to be registered as a suitable operator for the carrying out of the environmentally relevant activity—

(a) the chief executive must not decide the application for the environmental authority before deciding the application under section 318F; and

(b) for subsection (1), the decision stage for the application for the environmental authority is taken not to have started until the day the application under section 318F is decided.

169 When decision must be made—particular applications

(1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.

(2) If the administering authority or the planning chief executive is the assessment manager for the development application under the Planning Act, the administering authority must make a decision under subdivision 2 within the decision-making period for the development application, including any extension of the period.

(3) If the administering authority or the planning chief executive is a referral agency for the development application, the administering authority must make a decision under subdivision 2 within the referral agency's response period for the development application, including any extension of the period.

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Subdivision 1A Standard applications—general

169A Approval of standard applications generally

(1) This section applies if—

(a) an applicant makes a standard application, other than an application for a mining activity relating to a mining lease; and

(b) the applicant—

(i) is a registered suitable operator; or

(ii) has, together with the standard application, applied under section 318F to be registered as a suitable operator for carrying out the relevant activity for the application and has been given notice under section 318I(1)(a) stating the application for registration is approved.

(2) On the day the decision stage starts, the administering authority is taken to have decided to approve the standard application subject to the standard conditions for the relevant activities for the application.

Notes—

1 See sections 170 and 177 in relation to a standard application for a mining activity relating to a mining lease.

2 See also section 555 about approval of an electronic system to automatically issue an environmental authority for a standard application mentioned in this section.

Subdivision 2 Other applications

170 Deciding standard application for mining activity relating to mining lease

(1) This section applies for a standard application for a mining activity relating to a mining lease.

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(2) The administering authority must decide that the standard application be approved subject to the standard conditions for the mining activity.

(3) However, the administering authority may decide that the applicant be issued an environmental authority on conditions that are different to the standard conditions if—

(a) a properly made submission was made for the standard application relating to the subject of a standard condition for the mining activity; and

(b) the conditions are different only in relation to the subject of the standard condition mentioned in paragraph (a).

Note—

See section 169A in relation to the approval of other standard applications.

171 Deciding variation application

(1) This section applies for a variation application.

(2) The administering authority must decide—

(a) that the application be approved subject to conditions that are different to the standard conditions for the activity or authority; or

(b) that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.

172 Deciding site-specific application and approving PRCP schedule

(1) This section applies for a site-specific application.

(2) The administering authority must decide that the application—

(a) be approved subject to conditions; or

(b) be refused.

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(3) If there is a proposed PRC plan for the application, 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 amendment; or

(b) to refuse the proposed PRCP schedule.

(4) The administering authority may approve the proposed PRCP schedule with amendment only to the extent the amendment is necessary to enable the administering authority to approve the schedule under section 176A(2) and (3).

(5) If the administering authority refuses the proposed PRCP schedule, the administering authority must also refuse the application under subsection (2).

173 When particular applications must be refused

(1) The administering authority must refuse an application if the applicant is not a registered suitable operator.

(2) Subsection (3) applies to a development application if, under section 115, the application is taken to also be an application for an environmental authority and either of the following applies—

(a) the administering authority or planning chief executive is a referral agency for the development application and directs the assessment manager for the application to—

(i) refuse the application; or

(ii) give any development approval only as a preliminary approval;

(b) the administering authority or planning chief executive is the assessment manager for the development application and decides to—

(i) refuse the application; or

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(ii) give a preliminary approval even though the development application sought a development permit.

(3) The administering authority must refuse the application for an environmental authority.

(4) This section applies despite sections 170, 171 and 172.

(5) In this section—

preliminary approval means a preliminary approval under the Planning Act.

175 Criteria for decision—standard application for mining activity relating to mining lease

(1) This section applies for a standard application for a mining activity relating to a mining lease if a properly made submission is made for the application.

(2) In deciding the application, 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 application;

(ii) the standard conditions for the relevant activity or authority;

(iii) the standard criteria.

176 Criteria for decision—variation or site-specific application

(1) This section applies for a variation or site-specific application.

(2) In deciding the application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

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(b) subject to paragraph (a), have regard to each of the following—

(i) the application;

(ii) any standard conditions for the relevant activity or authority;

(iii) any response given for an information request;

(iv) the standard criteria.

(3) Despite subsection (2)(b), if the application is a variation application, the matters mentioned in subsection (2)(b) may only be considered to the extent they relate to the subject of the condition to be changed.

176A Criteria for decision—proposed PRCP schedule

(1) This section applies if there is a proposed PRC plan for a site-specific application.

(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;

(vi) any relevant advice, report or guidance published by the rehabilitation commissioner under section 444K.

(3) The administering authority must not approve the proposed PRCP schedule unless—

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(a) each proposed non-use management area under the schedule has been properly identified as a non-use management area; and

(b) 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.

Subdivision 3 Deemed decisions

177 Deemed decision for standard application for mining activity relating to mining lease in particular circumstances

(1) This section applies for a standard application for a mining activity relating to a mining lease.

(2) If the administering authority does not decide the standard application within the period required under subdivision 1 for the application—

(a) the administering authority is taken to have decided to approve the application on the standard conditions for the mining activity under section 170(2); and

(b) the decision is taken to have been made on the last day of the period.

178 Deemed decision for variation application in particular circumstances

If the administering authority does not decide a variation application within the period required under subdivision 1 for the application—

(a) the administering authority is taken to have decided to issue an environmental authority subject to the standard

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conditions for the activity or authority under section 171(2)(b); and

(b) the decision is taken to have been made on the last day of the period.

179 Deemed decision for site-specific application in particular circumstances

If the administering authority does not decide a site-specific application within the period required under subdivision 1 for the application—

(a) the administering authority is taken to have refused the application under section 172(2)(b); and

(b) the decision is taken to have been made on the last day of the period.

Division 3 Applications for mining activities relating to a mining lease

Subdivision 1 Preliminary

180 Application of div 3

This division applies for an application for a mining activity relating to a mining lease.

Subdivision 2 Notice of decision

181 Notice of decision

(1) Within 5 business days after making a decision under division 2, the administering authority must give the applicant and any submitters written notice of the decision.

(2) The notice must—

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(a) state the decision and the reasons for the decision; and

(b) if the decision is to approve the application or is a decision under section 170(3)—

(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 for 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, or a proposed PRC plan for the application, to the Land Court.

182 Submitter may give objection notice

(1) This section applies if the administering authority decides to approve the application or makes a decision under section 170(3).

(2) A submitter may, by written notice (the ***objection notice***) to the administering authority, request that its submission be taken to be an objection to the application.

(3) The objection notice must—

(a) be given to the administering authority within 20 business days after the notice under section 181(1) is given; and

(b) state the grounds for the objection.

(4) The objection notice ceases to have effect if the objection notice is withdrawn by giving written notice to—

(a) the administering authority; and

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(b) the Land Court.

183 Applicant may give notice about referral to Land Court

(1) The applicant may, by written notice to the administering authority—

(a) request that the administering authority refer the application to the Land Court; or

(b) notify the administering authority that the applicant does not intend to ask for a referral of the application to the Land Court.

(2) A request under subsection (1)(a) must be given to the administering authority within 20 business days after the notice under section 181(1) is given.

(3) If the applicant gives a notice under subsection (1)(b), the applicant can not later make a request under subsection (1)(a).

(4) This section does not apply for a decision made by the administering authority to refuse an application under section 173(1).

Subdivision 3 Referrals to Land Court

184 Application of sdiv 3

This subdivision applies to an application for a mining activity relating to a mining lease if—

(a) an objection notice for a submission about the application is given to the administering authority under section 182(2); or

(b) the applicant has requested under section 183(1)(a) that the application be referred to the Land Court.

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185 Referral to Land Court

(1) The administering authority must refer the application to the Land Court for a decision under this subdivision (the ***objections decision***), unless the application is referred to the Land Court under the Mineral Resources Act, section 265.

(2) The referral must be made within 10 business days after (but not before) the last day on which an objection notice for the application may be given to the administering authority under subdivision 2.

(3) The referral must be made by filing with the registrar of the Land Court—

(a) a notice, in the approved form, referring the application to the Land Court; and

(b) a copy of the application; and

(c) a copy of any response to an information request; and

(d) a copy of any submission for the application; and

(e) a copy of the notice given under section 181(1), including any draft environmental authority for the application; and

(f) a copy of any objection notice given under section 182(2); and

(g) a copy of any request for referral made by the applicant under section 183.

(4) The referral starts a proceeding before the Land Court for it to make the objections decision.

186 Parties to Land Court proceedings

The parties to the Land Court proceeding are as follows—

(a) the administering authority;

(b) the applicant;

(c) any objector for the application;

(d) anyone else decided by the Land Court.

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187 Notice of referral

The administering authority must, within 10 business days after making the referral—

(a) give the applicant a copy of—

(i) the notice mentioned in section 185(3)(a); and

(ii) if an objection notice was given—the objection notice and the submission to which the objection notice relates; and

(b) give any objector a copy of the notice mentioned in section 185(3)(a).

188 Objections decision hearing

(1) The Land Court may, of its own initiative, make orders or directions it considers appropriate for a hearing for the objections decision (the ***objections decision hearing***).

(2) However, the Land Court must make an order or direction that the objections decision hearing happen at the same time as a hearing for an application for the grant of a mining lease and any objections to the grant under the Mineral Resources Act, section 268 for the relevant mining tenure.

188A Striking out objection notices

(1) This section applies to the extent an objection notice is—

(a) outside the jurisdiction of the Land Court; or

(b) frivolous or vexatious; or

(c) otherwise an abuse of the process of the Land Court.

(2) Despite section 185(1), the Land Court may, at any stage of the hearing, strike out all or part of the objection notice.

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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 for 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 amendment; or

(b) be refused.

(3) However, if a relevant mining lease is, or is included in, a coordinated project, any stated 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.

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191 Matters to be considered for objections decision

In making the objections decision for the application, the Land Court must consider the following—

(a) the application;

(b) any response given for an information request;

(c) any standard conditions for the relevant activity or authority;

(d) any draft environmental authority or draft PRCP schedule for the application;

(e) any objection notice for the application;

(f) any relevant regulatory requirement;

(g) the standard criteria;

(h) the status of any application under the Mineral Resources Act for each relevant mining tenure.

192 Notice of objections decision

The Land Court must, as soon as practicable after the objections decision is made, give a copy of the decision to—

(a) the MRA Minister; and

(b) if a relevant mining lease is, or is included in, a coordinated project—the State Development Minister.

193 Advice from MRA and State Development Ministers about objections decision

(1) This section applies if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192.

(2) The MRA Minister or State Development Minister must advise the administering authority about any matter the MRA Minister or State Development Minister considers may help the administering authority to make a decision under subdivision 4 about the application.

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(3) The advice must be given within the period ending at the later of the following—

(a) 10 business days after the copy of the decision is received;

(b) if the relevant Minister and the administering authority have, within the 10 business days, agreed to a longer period—the longer period.

(4) In giving the advice, the MRA Minister or State Development Minister may seek advice from any entity.

(5) A contravention of this section does not invalidate—

(a) a decision made about an application under subdivision 4; or

(b) an environmental authority issued under division 4 for the application.

Subdivision 4 Final decision on application

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—

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(i) if there is a proposed PRC plan for the application—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 there is a proposed PRC plan for the application—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—

(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—

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(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 for the application for the environmental authority must be—

(a) the draft PRCP schedule for the plan be approved, with or without conditions or amendment; 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 for 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 for 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).

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(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.

Division 4 Steps after deciding application

195 Issuing environmental authority or PRCP schedule

(1) This section applies if the administering authority—

(a) is taken to have decided to approve a standard application under section 169A; or

(b) decides to approve another application for an environmental authority; or

(c) decides under section 170(3) or 171(2)(b) to issue an environmental authority; or

(d) decides to approve a draft PRCP schedule for a proposed PRC plan.

(2) The administering authority must—

(a) for a decision mentioned in subsection (1)(a), (b) or (c)—issue an environmental authority to the applicant within the period stated in section 196 for the decision; or

(b) for a decision mentioned in subsection (1)(d)—issue a PRCP schedule to the applicant within the period stated in section 196 for the decision.

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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) if there were no submitters for the application and, after notice of the decision is given under section 181, the applicant gives written notice to the administering authority under section 183(1)(b)—within 5 business days after the applicant gives the written notice; or

(d) 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

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(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;

(e) otherwise—within 5 business days after the decision mentioned in section 194(2) is made or taken to be made.

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.

198 Information notice about particular decisions

(1) Subsection (2) applies if the administering authority—

(a) decides to refuse an application; or

(b) decides to impose a condition on an environmental authority and the applicant has not agreed in writing to the condition or a condition to the same effect.

(2) The authority must give the applicant an information notice about the decision.

(3) The information notice must be given—

(a) for a decision mentioned in subsection (1)(a)—within 10 business days after the decision is made; or

(b) for a decision mentioned in subsection (1)(b)—when the environmental authority is issued to the applicant.

(4) If the administering authority decides to approve an application, it must, within 10 business days after the decision is made, give any submitter for the application an information notice about the decision.

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(5) This section does not apply for a decision about an application for a mining activity relating to a mining lease.

Division 5 Environmental authorities

199 Requirements for environmental authority

An environmental authority must—

(a) be in the approved form; and

(b) contain all conditions imposed on the authority; and

(c) identify any conditions that are standard conditions.

200 When environmental authority takes effect

(1) An environmental authority has effect—

(a) if the authority is for a prescribed ERA and it states that it takes effect on the day nominated by the holder of the authority in a written notice given to the administering authority—on the nominated day; or

(b) if the authority states a day or an event for it to take effect—on the stated day or when the stated event happens; or

(c) otherwise—on the day the authority is issued.

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.

(2) However, the day an environmental authority takes effect may not be before—

(a) if the authority is for a resource activity—the day the relevant tenure is granted to the applicant; or

(b) if a development permit for a material change of use of premises is necessary under the Planning Act for

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carrying out an activity that relates to the authority—the day the development permit takes effect; or

(c) if an SDA approval under the State Development Act is necessary under that Act for carrying out an activity that relates to the authority—the day the approval takes effect.

201 Term of environmental authority

(1) An environmental authority continues in force until the earlier of the following to happen—

(a) if the environmental authority states it will lapse after a stated period—the end of the stated period;

(b) the authority is cancelled, surrendered or suspended under this chapter.

(2) To remove any doubt, it is declared that an environmental authority continues in force in relation to an ERA carried out on land identified by reference to a resource tenure even if the resource tenure expires or is cancelled.

202 Environmental authority includes conditions

An environmental authority includes the conditions of the authority.

Note—

The *Environmental Offsets Act 2014*, part 6, states further conditions that apply to an environmental authority and those further conditions are called deemed conditions. A breach of a deemed condition may be dealt with under this Act.

Division 5A PRCP schedules

202A Requirements for PRCP schedule

A PRCP schedule must—

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(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.

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Division 6 Conditions

203 Conditions generally

(1) The administering authority may only impose a condition on an environmental authority, draft environmental authority, PRCP schedule or draft PRCP schedule if—

(a) it considers the condition is necessary or desirable; and

(b) if the authority is for an application to which section 115 applies—the condition relates to the carrying out of the relevant prescribed ERA.

(2) Despite subsection (1), if this Act or a regulatory requirement requires the administering authority to impose a condition, the administering authority must impose the condition.

(3) Subsection (1) only applies for a proposed condition for an environmental authority issued for a standard application if—

(a) the application relates to a mining lease; and

(b) a properly made submission was made for the application; and

(c) the condition is not a standard condition for the relevant activity or authority.

204 Environmental authorities for standard or variation applications include particular condition

(1) This section applies for an environmental authority or draft environmental authority issued for a standard or variation application.

(2) The environmental authority is taken to include a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.

(3) The condition under subsection (2) is taken to be a standard condition imposed on the environmental authority.

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205 Conditions that must be imposed if application relates to coordinated project

(1) This section applies for an application if—

(a) the administering authority decides to approve the application, or a PRCP schedule for a proposed PRC plan for the application, subject to conditions; and

(b) the application relates to a coordinated project.

(2) The administering authority must impose on the environmental authority, draft environmental authority, PRCP schedule or draft PRCP schedule any conditions for the authority or schedule stated in the Coordinator-General's report for the EIS or IAR for the project as conditions for the relevant activity (***Coordinator-General's conditions***).

Notes—

1 In evaluating an EIS under the State Development Act, the Coordinator-General may state conditions under section 34D(3)(b) of that Act.

2 In evaluating an IAR under the State Development Act, the Coordinator-General may state conditions under section 34L(3)(b) of that Act.

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

206 Environmental authorities for particular resource activities includes particular conditions

(1) An environmental authority issued for a resource activity other than a mining activity is taken to include a condition prohibiting the use of restricted stimulation fluids.

Example of the use of restricted stimulation fluids—

the use of hydrocarbon chemicals to stimulate the fracturing of coal seams

(2) Also, an environmental authority issued for a petroleum activity is taken to include a condition prohibiting the injection of a GHG stream into the Great Artesian Basin for the purpose of enhanced petroleum recovery.

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(3) Further, an environmental authority issued for a CSG activity in the Condamine Alluvium CSG area is taken to include a condition prohibiting the release of contaminants, by the operation of a well—

(a) into waters in the Condamine Alluvium CSG area; and

(b) resulting in water quality that is inconsistent with the water quality objectives that apply to the waters.

Note—

This subsection does not apply to particular existing or proposed wells—see section 862.

(4) A condition mentioned in subsection (1), (2) or (3) is taken to be a standard condition imposed on the environmental authority.

(5) In this section—

Condamine Alluvium CSG area see the *Regional Planning Interests Act 2014*, section 5A(2).

operation, of a well, means any stage of the life of the well, including, for example, the drilling, completion, operation, suspension or decommissioning of the well.

restricted stimulation fluids means fluids used for the purpose of stimulation, including fracturing, that contain the following chemicals in more than the maximum amount prescribed under a regulation—

(a) petroleum hydrocarbons containing benzene, ethylbenzene, toluene or xylene;

(b) chemicals that produce, or are likely to produce, benzene, ethylbenzene, toluene or xylene as the chemical breaks down in the environment.

water quality objectives means the water quality objectives prescribed by an environmental protection policy.

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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.

207 Conditions that may be imposed on environmental authority

(1) A condition imposed on an environmental authority or draft environmental authority may—

(a) be a standard condition for the authority or the relevant activity; or

(b) require the holder of the authority to give the administering authority a written notice (a ***statement of compliance***) about a document or work relating to a relevant activity; or

(c) require or otherwise relate to an environmental offset (an ***environmental offset condition***); or

(d) for an authority or draft authority for an environmentally relevant activity carried out on land in the Great Barrier

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Reef catchment—be a Great Barrier Reef water quality offset condition; or

(e) relate to access to land on which the relevant activity for the authority is being carried out; or

(f) relate to rehabilitating or remediating environmental harm because of a relevant activity, other than a relevant activity to which a PRCP schedule applies; or

(g) relate to action taken to prevent environmental harm because of a relevant activity; or

(h) relate to the exercise of underground water rights.

Note—

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

(2) Subsection (1) does not limit the conditions that may be imposed on an authority.

(3) A condition imposed on an authority may state that the condition continues to apply after the authority has ended or ceased to have effect.

(4) Also, a condition imposed on an authority may restrict, or impose requirements on, the carrying out of the relevant activity.

208 Condition requiring statement of compliance

(1) This section applies if a condition of an environmental authority, draft environmental authority, PRCP schedule or proposed PRCP schedule requires the holder to give the administering authority a statement of compliance about a document or work relating to a relevant activity.

(2) The condition must also state—

(a) the criteria (the ***compliance criteria***) the document or work must comply with; and

(b) that the statement of compliance must state whether the document or work complies with the compliance criteria; and

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(c) the information (the ***supporting information***) that must be provided to the administering authority to demonstrate compliance with the compliance criteria; and

(d) when the statement of compliance and supporting information must be given to the administering authority.

209 Environmental offset conditions

(1) An environmental offset condition may require an environmental offset to be carried out on land on which a relevant activity for the environmental authority is carried out or on other land in the State.

(3) If the environmental authority holder has entered into an agreement about an environmental offset for this section, an environmental offset condition may require the holder to comply with the agreement.

(4) The environmental authority holder may enter into an agreement with the administering authority or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.

(5) A reference in subsection (3) or (4) to the holder of an environmental authority entering into an agreement includes the holder entering into an agreement before the environmental authority is issued.

(6) An agreement entered into under subsection (3) or (4) is not an environmental offset agreement under the *Environmental Offsets Act 2014*.

210 Inconsistencies between particular conditions of environmental authorities

(1) This section applies if—

(a) an environmental authority contains conditions identified in the authority as standard conditions and other conditions (the ***non-standard conditions***); and

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(b) there is any inconsistency between the standard conditions and the non-standard conditions.

(2) The non-standard conditions prevail to the extent of the inconsistency.

Part 6 Amendments by administering authority

Division 1 Amendments

211 Corrections

The administering authority may amend an environmental authority or PRCP schedule to correct a clerical or formal error if—

(a) the amendment does not adversely affect the interests of the holder or anyone else; and

(b) the holder has been given written notice of the amendment.

212 Amendment to reflect NNTT conditions

(1) This section applies for an environmental authority or PRCP schedule for a mining or petroleum activity.

(2) The administering authority may amend the environmental authority or impose conditions on the PRCP schedule to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).

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

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212A Amendment to reflect regional interests development approval conditions

(1) This section applies if an environmental authority or PRCP schedule for a resource activity or regulated activity is inconsistent with a regional interests development approval for the activity under the *Regional Planning Interests Act 2014*.

(2) The administering authority may amend the environmental authority or PRCP schedule to ensure it is consistent with the regional interests development approval.

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

(4) A reference in this section to an environmental authority, PRCP schedule or a regional interests development approval includes a reference to a condition of the authority, schedule or approval.

(5) In this section—

regulated activity see the *Regional Planning Interests Act 2014*, section 17.

213 Amendment of environmental authorities to reflect new standard conditions

(1) This section applies if—

(a) an environmental authority (the ***existing authority***) is subject to conditions identified in the authority as standard conditions (the ***existing standard conditions***) for the activity or authority; and

(b) after the existing authority is issued, the chief executive makes an ERA standard providing for standard conditions for the activity; and

(c) the ERA standard states that the standard conditions apply to existing authorities that are subject to standard conditions for the activity; and

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(d) the new standard conditions are different to the existing standard conditions.

(2) The administering authority may amend the existing authority to replace the existing standard conditions with the new standard conditions.

(3) The administering authority must give written notice of the amendment to the environmental authority holder.

(4) The amendment of the environmental authority does not take effect until 1 year after the administering authority gives the holder notice under subsection (3).

215 Other amendments

(1) The administering authority may amend an environmental authority or PRCP schedule at any time if—

(a) it considers the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed; or

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

(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 person 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

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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 issue, amendment or withdrawal of an environmental enforcement order issued under section 362(1);

(k) a compliance statement given under this chapter;

(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 2;

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(n) the acceptance, withdrawal, variation, amendment or suspension of an enforceable undertaking under chapter 10, part 5;

(o) 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 (o)—

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.

(p) 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;

(q) for an environmental authority—a surrender application under part 10 is approved for a partial surrender of the authority;

(r) 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;

(s) 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.

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Division 2 Procedure for particular amendments

216 Application of division

This division applies if the administering authority proposes to amend an environmental authority or PRCP schedule, other than—

(a) to make an amendment under section 211, 212 or 213; or

(b) with the written agreement of the holder of the environmental authority or PRCP schedule.

217 Notice of proposed amendment

(1) The administering authority must give the holder of the environmental authority or PRCP schedule a written notice (the ***proposed amendment notice***) stating the following—

(a) the amendment (the ***proposed amendment***) the administering authority proposes to make;

(b) the grounds for the proposed amendment;

(c) the facts and circumstances that are the basis for the grounds;

(d) that the holder may, within a stated period, make written representations to show why the proposed amendment should not be made.

(2) The stated period must end at least 20 business days after the holder is given the proposed amendment notice.

(3) The proposed amendment notice must be accompanied by a copy of the environmental authority or PRCP schedule showing the changes.

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218 Considering representations

The administering authority must consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority or PRCP schedule.

219 Decision on proposed amendment

(1) If, after complying with section 218, the administering authority still believes a ground exists to make the proposed amendment, it may make the amendment.

(2) The decision under subsection (1) is the ***amendment decision***.

(3) In making the amendment decision, the administering authority—

(a) may change the proposed amendment as a result of written representations given to it by the holder; and

(b) is not required to obtain any further written representations from the holder before making the change mentioned in paragraph (a).

(4) If the administering authority at any time decides not to make the proposed amendment, it must promptly give the holder written notice of the decision.

220 Notice of amendment decision

The administering authority must, within 10 business days after the amendment decision is made, give the holder of the environmental authority or PRCP schedule an information notice about the decision.

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Division 3 Steps for amendments

221 Steps for amendment

(1) Subsection (2) applies if the administering authority amends an environmental authority or PRCP schedule under this part.

(2) The administering authority must, within the relevant period—

(a) amend the environmental authority or PRCP schedule to give effect to the amendment; and

(b) issue the amended environmental authority or PRCP schedule to the holder; and

(c) include a copy of the amended environmental authority or PRCP schedule in the relevant register.

(3) In this section—

relevant period means—

(a) if the administering authority gives a notice under section 211, 212(3) or 213(3)—10 business days after the notice is given; or

(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

(c) if the administering authority gives notice of an amendment decision under section 220—10 business days after the notice is given.

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Part 7 Amendment by application

Division 1 Preliminary

222 Exclusions from amendment under pt 7

The requirements of this part do not apply for—

(a) a partial surrender of an environmental authority allowed under section 261; or

(b) an amendment under which the holder of 2 or more environmental authorities seeks an amalgamated environmental authority for all activities for the authorities; or

(c) a transfer by the holder of all or part of an environmental authority to a person.

223 Definitions for part

In this part—

condition conversion, for an environmental authority, means an amendment replacing all of the conditions of the authority with the standard conditions for the environmentally relevant activity to which the authority relates.

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).

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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

(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.

minor amendment (threshold), for an environmental authority, means an amendment that—

(a) is not a change to a condition identified in the authority as a standard condition, other than—

(i) a change that is a condition conversion; or

(ii) a change that is not a condition conversion but that replaces a standard condition of the authority with a standard condition for the environmentally relevant activity to which the authority relates; or

(iii) a change that will not result in a change to the impact of the relevant activity on an environmental value; and

(b) does not significantly increase the level of environmental harm caused by the relevant activity; and

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(c) does not change any rehabilitation objectives stated in the authority in a way likely to result in significantly different impacts on environmental values than the impacts previously permitted under the authority; and

(d) does not significantly increase the scale or intensity of the relevant activity; and

(e) does not relate to a new relevant resource tenure for the authority that is—

(i) a new mining lease; or

(ii) a new petroleum lease; or

(iii) a new geothermal lease under the Geothermal Energy Act; or

(iv) a new GHG injection and storage lease under the GHG storage Act; and

(f) involves an addition to the surface area for the relevant activity of no more than 10% of the existing area; and

(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.

properly made amendment application see section 227AAA.

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Division 2 Making amendment application

224 Who may apply

The holder of an environmental authority or PRCP schedule may, at any time, apply to the administering authority to amend the environmental authority or PRCP schedule (an ***amendment application***).

Examples of when the holder may wish to make an amendment application—

- an environmental authority or PRCP schedule has been issued for a resource project and the holder proposes to carry out additional resource activities as part of the project
- to complement an application under the P&G Act, chapter 4, part 6 to amend a relevant pipeline licence

225 Amendment application can not be made in particular circumstances

(1) Despite section 224, an amendment application for an environmental authority for a prescribed ERA can not be made if—

(a) the proposed amendment involves changes to the relevant activity; and

(b) a development permit for a material change of use of premises is necessary under the Planning Act for the carrying out of the changed activity; and

(c) neither of the following applications has been made under the Planning Act—

(i) a development application for a development permit mentioned in paragraph (b);

(ii) a change application to change a development permit to authorise a material change of use of premises in relation to the changed activity.

(2) Also, despite section 224, an amendment application for an environmental authority can not be made if—

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(a) the proposed amendment is to add an environmentally relevant activity; and

(b) if the amendment application were approved, the addition of the activity would result in the environmental authority applying to activities that were not being carried out as an ERA project.

(3) In addition, despite section 224, if the holder relied on section 125(8) in the application for the environmental authority, an application can not be made to extend the term of the authority.

(4) Despite section 224, an amendment application for an environmental authority for a petroleum activity can not be made if the proposed amendment would allow the carrying out of an activity under the authority that is, or involves, the injection of a GHG stream into the Great Artesian Basin for the purpose of enhanced petroleum recovery.

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.

226AA Requirement for amendment application by holder of environmental authority and PRCP schedule

(1) This section applies if—

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(a) the holder of an environmental authority and a PRCP schedule for the environmental authority (each a ***relevant environmental requirement***) makes an amendment application; and

(b) the application is to amend only 1 of the relevant environmental requirements; and

(c) the approval of the amendment application would result in the relevant environmental requirement to which the application relates being inconsistent with the other relevant environmental requirement.

(2) The holder must make an amendment application to amend both relevant environmental requirements in a way that, if the amendment application were approved, would not result in 1 of the relevant environmental requirements being inconsistent with the other relevant environmental requirement.

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—

(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

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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 enforcement order issued under section 362(1) 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) any of the following applies—

(i) the process under chapter 3 for an EIS for the proposed amendment has been completed;

(ii) the Coordinator-General has evaluated an EIS for the proposed amendment under the State

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Development Act, section 34D and stated conditions that relate to the proposed amendment;

(iii) the Coordinator-General has evaluated an IAR for the proposed amendment under the State Development Act, section 34L and stated conditions that relate to the proposed amendment; and

(b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS mentioned in paragraph (a)(i) or the evaluation mentioned in paragraph (a)(ii) or (iii).

(3) Also, subsection (1)(a), (d), (e), (f), (g) and (h) does not apply to an application for a condition conversion.

(4) Despite subsection (1)(f), (g) and (h), if the amendment application is for an environmental authority for the prescribed ERA mentioned in the *Environmental Protection Regulation 2019*, schedule 2, section 13A—

(a) it need only include the matters mentioned in subsection (1)(f)(i) to (iv), (g) and (h) to the extent the matters relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef or Great Barrier Reef catchment waters; and

(b) subsection (1)(f)(v) does not apply for the amendment application.

226B Requirements for amendment applications for PRCP schedules

An amendment application for a PRCP schedule, other than an application for a minor amendment (PRCP threshold), must be accompanied by an amended rehabilitation planning part for the holder's PRC plan that complies with section 126C in relation to the proposed amendment.

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227 Requirements for amendment applications—CSG activities

(1) This section applies for an amendment application if—

(a) the application relates to an environmental authority for a CSG activity; and

(b) the proposed amendment would result in changes to the management of CSG water; and

(c) the CSG activity is an ineligible ERA.

(2) The application must also—

(a) state the matters mentioned in section 126(1); and

(b) comply with section 126(2).

227AA Requirements for amendment applications—underground water rights

(1) This section applies for an amendment application if—

(a) the application relates to a site-specific environmental authority for—

(i) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or

(ii) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease; and

(b) the proposed amendment involves changes to the exercise of underground water rights.

(2) The application must also state the matters mentioned in section 126A(2).

(3) In this section—

site-specific environmental authority means an environmental authority that includes 1 or more ineligible ERAs.

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227AAA When amendment application is a properly made amendment application

An amendment application under section 224 is a ***properly made amendment application*** if it complies with this division.

Division 2AA Notices about not properly made amendment applications

227AAB Notice about amendment application that is not a properly made amendment application

(1) This section applies if an amendment application is not a properly made amendment application.

(2) The administering authority must, within 10 business days after receiving the amendment application, give the applicant a notice stating the following—

(a) it is not a properly made amendment application;

(b) the reasons the administering authority is satisfied it is not a properly made amendment application;

(c) the action the administering authority is satisfied the applicant must take for the application to be a properly made amendment application;

(d) the period of at least 20 business days after the notice is given within which the applicant must give written notice to the administering authority that the action has been taken;

(e) that, if the applicant does not give the notice mentioned in paragraph (d) within the stated period, the amendment application will lapse under section 227AAC.

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227AAC When amendment application lapses

(1) This section applies if the applicant is given a notice under section 227AAB(2).

(2) The amendment application lapses if the applicant does not, within the stated period or the further period agreed between the administering authority and the applicant—

(a) take the action mentioned in section 227AAB(2)(c); and

(b) give the administering authority written notice that the action has been taken.

Division 2A Provision for particular amendment applications

227A Early refusal of particular amendment applications and requirement to replace environmental authority

(1) This section applies to an amendment application if the proposed amendment would change a condition imposed under section 204 on the environmental authority to which the application relates.

(2) The administering authority may, within 10 business days after receiving the amendment application, refuse the application under this section.

(3) Also, if the administering authority refuses the application, the authority may require the holder of the environmental authority to make a site-specific application for a new environmental authority under part 2 to replace the environmental authority.

(4) However, section 316P(3) to (7) applies to the requirement as if a reference to the holder of the environmental authority were a reference to the applicant.

(5) The administering authority must give the applicant written notice of any refusal under subsection (2).

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(6) Divisions 3 to 5 do not apply to the amendment application if the administering authority refuses the application under this section.

Division 3 Assessment level decisions

227B Amendment applications to which div 3 does not apply

This division does not apply to an amendment application for a condition conversion.

228 Assessment level decision for amendment application

(1) The administering authority must, after receiving an amendment application, decide whether the proposed amendment is a major or minor amendment—

(a) if the administering authority gives the applicant a notice under section 227AAB(2)—within 10 business days after the applicant gives the administering authority the notice mentioned in section 227AAB(2)(d); or

(b) otherwise—within 10 business days after receiving the amendment application.

(2) 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.

(3) The decision under subsection (1) is the ***assessment level decision*** for the application.

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(4) If the assessment level decision is that the amendment is a major amendment, the applicant must pay an assessment fee prescribed by regulation.

229 Notice of assessment level decision

(1) The administering authority must, within 10 business days after the assessment level decision is made, give the applicant a written notice stating—

(a) the assessment level decision; and

(b) if the decision is that the proposed amendment is a major amendment—the reasons for the decision.

(2) Also, if the assessment level decision is that the amendment is a major amendment, the written notice must also state that—

(a) the applicant must pay an assessment fee prescribed by regulation; and

(b) an assessment of the application under division 4 will not proceed until the assessment fee mentioned in paragraph (a) is paid.

230 Administering authority must require public notification for particular amendment applications

(1) This section applies if—

(a) an amendment application is for an environmental authority for a resource activity; and

(b) the assessment level decision is that the amendment is a major amendment.

(2) The notice given under section 229 must state that part 4 applies to the amendment application.

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Division 4 Process if proposed amendment is a major amendment

231 Application of div 4

This division applies if the assessment level decision for an amendment application is that the proposed amendment is a major amendment.

232 Relevant application process applies

(1) 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, if the amendment application is for a PRCP schedule, part 4 does not apply to the application to the extent the change—

(a) reduces the area of a non-use management area under the schedule; or

(b) is likely to reduce, or cause no change to, the impacts on environmental values caused by the activities the subject of the schedule.

(2A) Also, the following provisions do not apply for an amendment application for an environmental authority for a mining activity relating to a mining lease—

(a) sections 139(2)(b) and 143A;

(b) sections 150(1)(a)(ii) and (b)(ii) and 151(2).

(3) The provisions applied under this section apply—

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(a) as if a reference in sections 144 and 151 to the end of the application stage were a reference to the later of the following—

(i) the day notice of the assessment level decision is given;

(ii) the day the fee mentioned in section 228(4) is paid; and

(b) with any other necessary changes; and

(c) subject to subsection (4) and sections 234 and 235.

(3A) Also, if the assessment level decision is that the amendment is a major amendment, an assessment of the application under parts 3 to 5 as applied by this section may not proceed until the prescribed assessment fee is paid.

(4) To remove any doubt, it is declared that a submission made under section 160, as applied under subsection (1)—

(a) may be made about an existing provision of the environmental authority or PRCP schedule only to the extent the provision is proposed to be amended under the amendment application; and

(b) can not be made about activities carried out under the environmental authority or PRCP schedule before the deciding of the amendment application.

234 Submission period

(1) Despite sections 153(1)(g) and 154, the submission period for the application is the period fixed by the administering authority by written notice to the applicant.

(2) However, the period must be at least 20 business days and must end at least 20 business days after the publication of the application notice.

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235 Criteria for deciding amendment application

Despite section 176(2)(b) or 176A, the matters mentioned in section 176(2)(b) or 176A may only be considered to the extent they relate to the proposed amendment.

236 Changing amendment application

(1) Before the amendment application is decided, the applicant may change the application by giving the administering authority—

(a) written notice of the change; and

(b) the fee prescribed under a regulation.

(2) An applicant can not change an amendment application if the change would, if the application were remade including the change, result in the application not being a properly made amendment application.

(3) Subsection (2) does not apply to the applicant if the applicant takes the action that would be necessary to make the application a properly made amendment application if it were remade.

237 Effect on assessment of amendment application—minor change

(1) The assessment of a changed amendment application under parts 3 to 5, as applied under section 232(1), does not stop if—

(a) the change is a minor change of the application; or

(b) the administering authority gives its written agreement to the change.

(2) For the changed application, the notification stage does not again apply, and is not required to restart, if—

(a) the notification stage applied to the original amendment application; and

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(b) the change was made during the notification stage or after the notification stage ended.

238 Effect on assessment of amendment application—other changes

(1) Subsections (2) to (5) apply to a changed amendment application if—

(a) the change is not a minor change; and

(b) the administering authority has not given its written agreement to the change.

(2) The assessment of the application under parts 3 to 5, as applied under section 232(1), stops on the day notice of the change is received.

(3) If the information stage applies to the changed application—

(a) the information stage restarts, on the day notice of the change is received, from the start of the stage; and

(b) the administering authority may ask the applicant to give further information needed to assess the application; and

(c) a request under paragraph (b) is taken to be an information request under section 140, as applied under section 232; and

(d) a request under paragraph (b) must be made within the number of business days after the day notice of the change is received that would apply if a reference in section 144, as applied under section 232, to the end of the application stage were a reference to the later of the following—

(i) the day notice of the change is received;

(ii) the day the fee mentioned in section 236(1)(b) is paid; and

(e) if no information request is made under paragraph (b)—the information stage for the changed application is taken to have ended; and

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(f) if the notification stage also applies to the changed application—the applicant may start the notification stage the day notice of the change is given.

(4) If the information stage does not apply to the changed application, but the notification stage applies, the assessment of the application restarts from section 152.

(5) If neither the information stage nor the notification stage apply to the changed application, the assessment of the application restarts from the start of the decision stage.

(6) Subsection (7) applies to a changed application if—

(a) the assessment of the application has stopped under subsection (2); and

(b) the notification stage applied to the original application; and

(c) the change was made during the notification stage or after the notification stage ended.

(7) The notification stage must be repeated unless 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.

Division 5 Process if proposed amendment is minor amendment

239 Application of div 5

This division applies if—

(a) the assessment level decision for an amendment application is that the proposed amendment is a minor amendment; or

(b) an amendment application is for a condition conversion for an environmental authority.

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240 Deciding amendment application

(1) The administering authority must decide either to approve or refuse the application—

(a) if the application is for a condition conversion for an environmental authority—within 10 business days after the application is received; or

(b) otherwise—

(i) within 10 business days after notice of the assessment level decision is given to the applicant; or

(ii) if the applicant agrees to extend the period mentioned in subparagraph (i) by no more than 20 business days—within the extended period.

(2) The administering authority may approve the amendment application if it is satisfied the proposed amendment is necessary or desirable.

(3) If the administering authority decides to approve the application, it may also make any other amendments to the conditions of the environmental authority or PRCP schedule it considers—

(a) relate to the subject matter of the proposed amendment; and

(b) are necessary or desirable.

241 Criteria for deciding amendment application

In deciding the application, other than an application for a condition conversion, 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 amendment application;

(ii) the existing environmental authority or PRCP schedule;

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(iii) the standard criteria.

Division 6 Steps after deciding amendment application

242 Steps after deciding amendment application

(1) If the administering authority decides to approve the amendment application, it must, within 5 business days after the decision is made—

(a) amend the environmental authority or PRCP schedule to give effect to the amendment; and

(b) issue the amended environmental authority or PRCP schedule to the applicant; and

(c) include a copy of the amended environmental authority or PRCP schedule in the relevant register.

(2) Subsection (3) applies if the administering authority decides to—

(a) refuse the application; or

(b) make an amendment, other than an amendment agreed to by the applicant.

(3) The administering authority must, within 5 business days after the decision is made, give the applicant an information notice about the decision.

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Part 8 Amalgamating and de-amalgamating environmental authorities and PRCP schedules

Division 1 Preliminary

243 Definitions for pt 8

In this part—

amalgamated corporate authority means an amalgamated environmental authority that is not an amalgamated local government authority or an amalgamated project authority.

amalgamated environmental authority see section 245(1).

amalgamated local government authority means an amalgamated environmental authority for which the holder is a local government.

amalgamated project authority means an amalgamated environmental authority for which the relevant activities are carried out as a single integrated operation.

amalgamation application means an application under section 245.

de-amalgamation application means an application made under section 250A.

existing environmental authority means an environmental authority the subject of an amalgamation application.

transfer tenure see section 250A(1)(b)(iii).

244 Types of amalgamated environmental authorities

The types of amalgamated environmental authorities are—

(a) amalgamated corporate authorities; and

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(b) amalgamated local government authorities; and

(c) amalgamated project authorities.

Division 1A Amalgamating environmental authorities

245 Who may apply

(1) The holder of 2 or more environmental authorities may, at any time, apply to the administering authority for a new environmental authority (an ***amalgamated environmental authority***) for all activities for the authorities.

(2) However, if an environmental authority is held jointly by 2 or more persons, the environmental authority can not be the subject of an amalgamation application unless all of the environmental authorities, the subject of the application, are held jointly by the same persons.

246 Requirements for amalgamation application

An amalgamation application must—

(a) be made in the approved form; and

(b) state whether the application is for—

(i) an amalgamated corporate authority; or

(ii) an amalgamated local government authority; or

(iii) an amalgamated project authority; and

(c) be supported by enough information to allow the administering authority to decide the application; and

(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

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(e) if the application is for an amalgamated corporate authority—be accompanied by an application under section 316L to change the anniversary day for each of the existing environmental authorities to a new day that is the same for all of the authorities; and

(f) if the application is for an amalgamated local government authority or amalgamated project authority and the highest annual fee is the same for 2 or more of the existing environmental authorities—nominate the anniversary day for 1 of the authorities with the highest annual fee as the anniversary day for the amalgamated environmental authority; and

(g) be accompanied by the fee prescribed by regulation.

Division 2 Deciding amalgamation application

247 Deciding amalgamation application

(1) Subject to subsections (3) and (4), the administering authority must decide to—

(a) approve the application; or

(b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.

(2) The administering authority must decide the amalgamation application—

(a) within 20 business days after the day the application is received; or

(b) if the applicant agrees to extend the period mentioned in paragraph (a) by not more than 10 business days—within the extended period.

(3) The administering authority may only approve an application for an amalgamated local government authority if—

(a) the applicant is a local government; and

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(b) the relevant activities for the existing environmental authorities do not constitute a significant business activity; and

(c) the administering authority is satisfied there is an appropriate degree of integration between the activities.

(4) The administering authority may only approve an application for an amalgamated project authority if it is satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.

(5) 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.

(6) The conditions of the amalgamated environmental authority may vary from the conditions imposed on the existing environmental authorities—

(a) to the extent necessary for, or to avoid duplication because of, the amalgamation; and

(b) only if the applicant agrees in writing to the variation.

(7) In this section—

significant business activity has the meaning given by the *Local Government Act 2009*, section 43.

Division 3 Miscellaneous provisions for amalgamation applications

247A Anniversary day for amalgamated local government authority or amalgamated project authority

(1) This section applies if the administering authority decides to approve an amalgamation application for an amalgamated local government authority or amalgamated project authority.

(2) The anniversary day for the amalgamated environmental authority is—

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(a) if the highest annual fee is the same for 2 or more of the existing environmental authorities immediately before the approval of the amalgamation application—the anniversary day nominated by the applicant under section 246(f); or

(b) otherwise—the anniversary day for the existing environmental authority that had the highest annual fee immediately before the approval of the amalgamation application.

248 Steps after deciding amalgamation application

If the administering authority decides to approve an amalgamation application, it must, within 5 business days after the decision is made—

(a) amalgamate the existing environmental authorities to give effect to the amalgamation; and

(b) issue to the applicant—

(i) if the application is for an amalgamated corporate authority—an amalgamated corporate authority; or

(ii) if the application is for an amalgamated local government authority—an amalgamated local government authority; or

(iii) if the application is for an amalgamated project authority—an amalgamated project authority; and

(c) if the administering authority issues an amalgamated local government authority or amalgamated project authority—give the applicant written notice of the anniversary day for the amalgamated environmental authority; and

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

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

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249 Information notice about particular decisions

The administering authority must, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.

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.

Division 4 De-amalgamating environmental authorities

250A Who may apply for de-amalgamation

(1) The holder of a relevant authority may make an application to the administering authority for the de-amalgamation of the authority if—

(a) the authority is not for a resource project; or

(b) the authority is for a resource project and—

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(i) the project is no longer being carried out as a single integrated operation; or

(ii) the existing holder is proposing to no longer carry out the project as a single integrated operation; or

(iii) the existing holder is proposing to transfer to another person a resource tenure (a ***transfer tenure***) to which the authority relates.

(2) In this section—

relevant authority means—

(a) an amalgamated environmental authority; or

(b) an environmental authority issued for an ERA project.

250B Requirements for de-amalgamation application

A de-amalgamation application must—

(a) be made in the approved form; and

(b) if the application relates to a resource project—be accompanied by a declaration by the applicant that—

(i) the project is no longer being carried out as a single integrated operation; or

(ii) the existing holder is proposing to no longer carry out the project as a single integrated operation; or

(iii) the existing holder is proposing to transfer to another person a resource tenure to which the authority relates; and

(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) if an ERC decision is, or has been, in effect for the environmental authority—be accompanied by an application under section 298 for an ERC decision for

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each of the proposed de-amalgamated environmental authorities; and

(e) be accompanied by the fee prescribed by regulation.

250C De-amalgamation

(1) If the administering authority receives 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) The administering authority must comply with subsection (1)—

(a) within 15 business days after the day the de-amalgamation application is received; or

(b) if the applicant agrees to extend the period mentioned in paragraph (a) by a period of not more than 10 business days—within the extended period.

(3) If a PRCP schedule is de-amalgamated under subsection (1)(b), the holder of each de-amalgamated schedule must be the holder of the de-amalgamated environmental authority.

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(4) Despite subsection (2), if an ERC decision is, or has been, in effect for the environmental authority, the administering authority may only do the things mentioned in subsection (1)(a) to (e) after the administering authority makes an ERC decision for each of the proposed de-amalgamated environmental authorities.

(5) The conditions of each de-amalgamated environmental authority may vary from the conditions imposed on the environmental authority immediately before the de-amalgamation—

(a) to the extent necessary for the de-amalgamation; and

(b) only if the applicant agrees in writing to the variation.

250D When de-amalgamation takes effect

The de-amalgamation of an environmental authority takes effect—

(a) if it relates to a transfer tenure—when both of the following things have happened—

(i) the transfer tenure is transferred;

(ii) the proposed holder of each de-amalgamated environmental authority 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*; or

(b) if it relates to a relevant authority for a resource project for which the existing holder proposes to no longer carry out the project as a single integrated operation—when the existing holder stops carrying out the project as a single integrated operation; or

(c) otherwise—when the administering authority issues 2 or more environmental authorities to the applicant under section 250C(1)(c).

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Part 9 Transferring environmental authorities for prescribed ERAs

251 Application of pt 9

This part applies for an environmental authority for a prescribed ERA.

252 Who may apply for transfer

(1) The holder (the ***existing holder***) of the environmental authority may make an application (a ***transfer application***) to transfer all or part of the authority to a person.

Examples of when a transfer application may be made—

- An environmental authority is held by 3 joint holders. The joint holders may make a transfer application to transfer the authority to 2 only of the joint holders. Alternatively, the joint holders may seek to transfer the authority to another person, so that the authority will be held by 4 joint holders.
- It is proposed that a new person will carry out part of the relevant activity for an environmental authority. The holder of the authority may make a transfer application to transfer to the new person that part of the authority that relates to the activity to be carried out by the new person.

(2) However, an application can not be made by a holder if section 125(8) was relied on in the application for the environmental authority.

253 Requirements for transfer application

A transfer application must—

(a) be made to the administering authority in the approved form; and

(b) include the name and address of the proposed holder of the environmental authority or each part of the environmental authority; and

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(c) be signed by the existing holder and the proposed holder; and

(d) state whether the proposed holder is a registered suitable operator; and

(e) if the proposed holder is not a registered suitable operator—be accompanied by an application for registration as a suitable operator under chapter 5A, part 4, division 1; and

(f) be accompanied by the fee prescribed under a regulation.

254 Deciding transfer application

(1) The administering authority must consider each transfer application and decide to—

(a) approve the transfer; or

(b) refuse the transfer.

(2) Despite subsection (1), the application must be approved if the proposed holder is a registered suitable operator.

(3) The decision under subsection (1) must be made—

(a) if the proposed holder is a registered suitable operator—within 10 business days after the transfer application is received; or

(b) if the proposed holder is not a registered suitable operator—when an application for registration as a suitable operator is decided under chapter 5A, part 4, division 1.

255 Steps after deciding transfer application

(1) If the administering authority decides to approve a transfer application under section 254(1)(a), it must, within 5 business days after the decision is made—

(a) amend the relevant environmental authority to give effect to the transfer; and

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Example for paragraph (a)—

For a transfer application for an environmental authority that is an amalgamated corporate authority, the proposed holders may be the existing holder for part of the authority and a new holder for part of the authority. The administering authority must amend the existing authority by dividing it into 2 new authorities.

(b) issue the amended environmental authority (the ***transferred environmental authority***) to each holder; and

(c) include a copy of the transferred environmental authority in the relevant register.

(2) If the administering authority decides to refuse a transfer application, it must, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

256 Notice to owners of transfer

(1) This section applies if—

(a) a person is issued a transferred environmental authority under section 255(1)(b); and

(b) the person is not the owner of the land to which the authority relates.

(2) The person must, within 10 business days after receiving the authority, give each owner of the land to which the authority relates written notice it has been issued the authority.

Maximum penalty—10 penalty units.

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Part 10 Surrender of environmental authorities

Division 1 Preliminary

257 Who may apply for surrender

(1) The holder of an environmental authority may apply to the administering authority to surrender the environmental authority (a ***surrender application***).

(2) Subsection (3) applies if—

(a) the environmental authority relates to a mining activity; and

(b) under the Mineral Resources Act, the holder of the environmental authority has sought a conditional surrender of all or part of a relevant mining tenure.

(3) A surrender application may only be made for the part of the environmental authority relating to land to which a new mining tenure will not apply if the conditional surrender is approved.

(4) Subsection (5) applies if a relevant tenure for the environmental authority is to be surrendered under resource legislation.

(5) A surrender application for the authority may only be made if an application to surrender the relevant tenure is also made under resource legislation.

(6) Subsections (3) and (5) apply despite subsection (1).

(7) In this section—

conditional surrender, of a mining tenure, means a surrender in relation to the tenure of a type mentioned in the Mineral Resources Act, section 107(7), 161(4), 210(13) or 309(12).

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258 Notice by administering authority to make surrender application

(1) This section applies for an environmental authority for—

(a) a mining activity; or

(b) a petroleum activity; or

(c) a geothermal activity.

(2) The administering authority may, by written notice (a ***surrender notice***), require the holder of the environmental authority to make a surrender application if—

(a) a relevant tenure for the authority is cancelled; or

(b) a relevant tenure for the authority is, according to its provisions, to end other than by cancellation; or

(c) if the authority is for a petroleum activity—the area of a relevant tenure for the authority is reduced under a requirement of noncompliance action taken under resource legislation; or

(d) part of the area of a relevant tenure for the authority is relinquished, other than under a requirement of noncompliance action taken under resource legislation; or

(e) part of the area of a relevant tenure for the authority is surrendered.

(3) The surrender notice must—

(a) state the period of at least 30 business days within which the surrender application must be made; and

(b) be accompanied by, or include, an information notice about the authority's decisions to require the surrender application and to fix the stated period.

(4) A surrender application under subsection (2) must be for the environmental authority to the extent it relates to the relevant tenure cancelled, expired or affected by a relinquishment, reduction in area or partial surrender.

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259 When surrender notice ceases to have effect

A surrender notice ceases to have effect if, within the period stated in the notice—

(a) the relevant tenure is, under resource legislation—

(i) renewed or continued in force; or

(ii) consolidated with another relevant tenure; or

(b) if the relevant tenure is a mining tenure—the tenure is replaced with a new tenure of the same type in respect of all or part of the land included in the relevant tenure; or

(c) a replacement environmental authority is issued to the holder, and the replacement environmental authority has taken effect.

Note—

For when an environmental authority takes effect, see section 200.

260 Failure to comply with surrender notice

The holder of an environmental authority to whom a surrender notice has been given must comply with the notice unless the holder has a reasonable excuse.

Maximum penalty—100 penalty units.

261 Surrender may be partial

(1) This section applies for an environmental authority for—

(a) a mining activity; or

(b) a petroleum activity; or

(c) a geothermal activity.

(2) The administering authority may approve a surrender application for a part of the environmental authority.

Examples for subsection (2)—

1 An environmental authority relates to a mining claim and a mining lease. Under the Mineral Resources Act, the holder of the authority

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seeks to surrender the mining lease. The holder may, under this part, seek to surrender that part of the authority that relates to the mining lease.

2 An environmental authority relates to 1 mining tenure. Under the Mineral Resources Act, the holder of the tenure may seek to surrender part of the tenure. The holder of the authority may, under this part, seek to surrender that part of the authority that relates to the part of the resource tenure to be surrendered.

Division 2 Surrender applications

262 Requirements for surrender application

(1) A surrender application must—

(a) be in the approved form; and

(b) be supported by enough information to allow the administering authority to decide the application; and

(c) if the relevant activity was not carried out—be accompanied by a declaration stating that the activity was not carried out; and

(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 the environmental authority is for a resource activity, whether or not a PRCP schedule applies for the activity—a post-surrender management report for land the subject of the application that complies with 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

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(iv) the fee prescribed by regulation.

(2) The compliance statement must—

(a) be made by or for the environmental authority holder; and

(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;

(iii) if a post-surrender management 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.

263 Amending surrender application

(1) The applicant may, at any time before the administering authority decides the surrender application, amend the application.

(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.

(3) The notice must be accompanied by the fee prescribed under a regulation.

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(4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 265.

Division 3 Final rehabilitation reports and post-surrender management reports

264 Requirements for final rehabilitation report

A final rehabilitation report must—

(a) be in the approved form; and

(b) include enough information to allow the administering authority to decide whether—

(i) the conditions of the environmental authority have been complied with; and

(ii) the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; and

(c) for an environmental authority other than for a resource activity, describe any ongoing environmental management needs for the land; and

(d) for an environmental authority for a resource activity, state details of—

(i) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the environmental authority; and

(ii) any consultation with affected owners and occupiers, members of the public, community groups, government agencies, and other bodies about any completion criteria for rehabilitation stated in the environmental authority; and

(e) include another matter prescribed under a regulation.

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264A Requirements for post-surrender management report

(1) A post-surrender management report for land the subject of a surrender application must—

(a) be in the approved form; and

(b) include a map of the land showing the location of—

(i) where the resource activities were carried out on the land; and

(ii) the site features of the land; and

(c) state—

(i) whether the particulars of any part of the land are included in the environmental management register or contaminated land register; and

(ii) whether a site management plan under chapter 7, part 8 exists for any part of the land; and

(d) state any assumptions made in relation to the rehabilitation or future use of the land; and

(e) include a risk assessment of the land that complies with the residual risk assessment guideline; and

(f) include a risk management plan for the land that complies with subsection (2) if—

(i) the risk assessment of the land identifies residual risks for the land for which remedial action or ongoing management activities may need to be carried out in relation to the land; and

(ii) the residual risk assessment guideline requires the estimated costs and expenses that may be incurred in carrying out the remedial action or ongoing management activities to be worked out in a stated way; and

(g) include any other matters prescribed by regulation.

(2) A risk management plan for land the subject of a surrender application must be in the approved form and include—

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(a) spatial information about the site features of the land, including the location, size and type of the features; and

(b) details of the consultation with affected owners and occupiers about—

(i) any assumptions made in relation to the rehabilitation or future use of the land; and

(ii) the remedial action or ongoing management activities that may need to be carried out in relation to the land; and

(c) a statement of any assumptions made in relation to the remedial action or ongoing management activities that may need to be carried out in relation to the land; and

(d) an activity schedule outlining details of any remedial action or ongoing management activities that may need to be carried out in relation to the land; and

(e) if a site management plan under chapter 7, part 8 for any part of the land provides for carrying out activities that are the same, or substantially the same, as remedial action or ongoing management activities mentioned in the activity schedule—details of how those activities are to be carried out and managed in perpetuity; and

(f) the estimated amount of the costs and expenses that may be incurred in carrying out remedial action or ongoing management activities mentioned in the activity schedule, worked out as stated in the residual risk assessment guideline.

Division 4 Requests for information

265 Administering authority may request further information

(1) The administering authority may ask the applicant, by written request, to give further information needed to assess the surrender application.

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(2) The request must be made within 10 business days after the application is received.

Division 5 Deciding surrender applications

266 Deciding surrender application

(1) The administering authority must decide to—

(a) approve the surrender application; or

(b) refuse the surrender application.

(2) Of the following periods that apply to a surrender application, a decision under subsection (1) about the application must be made within the later of the periods to end—

(a) if the administering authority requests further information under section 265(1)—40 business days after the further information is received by the authority;

(b) if the administering authority does not request further information under section 265(1)—40 business days after the application is made;

(c) if the environmental authority is for a resource activity and the relevant tenure is an exploration permit or mineral development licence—60 business days after the relevant tenure ends;

(d) if the environmental authority is for a resource activity and the relevant tenure is a mining lease or petroleum lease—90 business days after the relevant tenure ends.

267 Advice from relevant resource legislation chief executive about surrender application

(1) The administering authority may, before it makes a decision to refuse a surrender application for an environmental authority for a mining activity, seek advice from the chief executive of the department in which the Mineral Resources Act is administered.

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(2) Also, the administering authority may, before it decides a surrender application for an environmental authority for a resource activity, seek advice from the chief executive administering the relevant resource legislation about the post-surrender management report for land the subject of the application.

(3) The advice may be sought in the way the administering authority considers appropriate.

(4) If the advice is given, it must be given within the period required under section 266(2) for the administering authority to make the decision.

268 Criteria for decision generally

In deciding a surrender application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider each of the following—

(i) the application;

(ii) any monitoring results relating to the rehabilitated area the subject of the application;

(iii) a final rehabilitation report and post-surrender management report accompanying the application;

(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;

(v) any advice given under section 267 by the chief executive administering the resource legislation;

(vi) another matter prescribed under an environmental protection policy or a regulation; and

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(c) if a progressive certification has been given for a relevant tenure for the environmental authority—

(i) confirm that the certified area for the relevant tenure still meets the criteria under section 318ZI against which it was certified; and

(ii) if the confirmation is made—give full effect to the certification; and

(d) if the environmental authority relates to land for which particulars are or were recorded in the environmental management register—consider whether or not the land has been removed from the environmental management register or the land has a site management plan approved for it.

268A Criteria for decision—prescribed resource activities in overlapping area

(1) This section applies if—

(a) the environmental authority the subject of the surrender application—

(i) is for a prescribed resource activity; and

(ii) relates to land in an overlapping area; and

(b) another prescribed resource activity (the ***overlapping prescribed resource activity***) is being, or is proposed to be, carried out in the overlapping area.

(2) In deciding the surrender application, the administering authority must also consider—

(a) the extent to which compliance with a rehabilitation condition of the environmental authority, or a PRCP schedule, is impossible or impractical due to the carrying out of the overlapping prescribed resource activity; and

(b) whether an environmental authority or PRCP schedule for the overlapping prescribed resource activity has been amended to include a condition equivalent to the

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rehabilitation condition of the environmental authority to be surrendered.

269 Restrictions on giving approval

(1) The administering authority may only approve a surrender application if—

(a) the authority is satisfied the conditions of the environmental authority have been complied with; and

(b) if the environmental authority is subject to conditions requiring rehabilitation, and a PRCP schedule does not apply for a relevant activity under the environmental authority—

(i) the authority is satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; or

(ii) the authority has issued a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; and

(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.

(2) Despite subsection (1)(b), the administering authority may approve a surrender application for an environmental authority that relates to land in an overlapping area if—

(a) the administering authority is satisfied compliance with a rehabilitation condition of the environmental authority, or a PRCP schedule, is impossible or

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impractical due to the carrying out of an overlapping prescribed resource activity in the area; and

(b) an environmental authority or PRCP schedule for the overlapping prescribed resource activity has been amended to include a condition equivalent to the rehabilitation condition of the environmental authority to be surrendered.

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.

270 When application may be refused

(1) This section applies if—

(a) a surrender application for a partial surrender of an environmental authority for an ERA project is made; and

(b) if the application was approved, the environmental authority would not apply to all remaining areas that form the project.

(2) Without limiting sections 266(1) and 268, the administering authority may refuse the surrender application.

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Division 6 Residual risk requirements

271 Payment may be required for residual risks

(1) This section applies for a surrender application for an environmental authority for a resource activity.

(2) The administering authority may, by written notice, require the applicant to pay the administering authority, or another entity that performs functions under this Act, a stated amount, within 6 months after the day the notice is given, for the residual risks of land the subject of the surrender application.

Example of another entity—

the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*

(3) A requirement under subsection (2) is a ***residual risks requirement***.

(4) If a progressive certification has previously been given for a relevant tenure for the environmental authority, the administering authority must, in deciding to require the payment, confirm that the area of the relevant tenure still meets the criteria under section 318ZI against which it was certified.

272 Criteria for decision to make residual risks requirement

The administering authority may make a residual risks requirement for the surrender application only if it is satisfied the requirement is justified having regard to—

(a) the degree of risk of environmental harm likely to happen if the land the subject of the application is managed under the relevant requirements of this Act and instruments made under it; and

(b) the likelihood of action being needed to—

(i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or

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(ii) maintain environmental management processes needed to protect the environment; or

Example of an action for subparagraph (ii)—

plugging a GHG well that is found to be leaking GHG into an overlying aquifer

(iii) restore the environment because of environmental harm resulting from relevant resource activities for the environmental authority; and

Example of an action for subparagraph (iii)—

pumping contaminated water to the surface for treatment

(c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by the activities.

273 Amount and form of payment

(1) The administering authority must decide the amount and form of the payment required.

(2) The administering authority must have regard to the residual risk assessment guideline in deciding the amount of the payment.

(3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority's opinion, represents the likely management costs.

(4) In this section—

likely management costs, in relation to land the subject of a surrender application, means all likely costs and expenses that may be incurred in carrying out remedial action or ongoing management activities in relation to the land because of residual risks of the land.

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273A Extension of period for payment

(1) Before the end of the 6-month period mentioned in section 271(2) for a residual risks requirement, the administering authority may, with the written agreement of the applicant, extend the period for compliance with the requirement.

(2) The administering authority may extend the period under subsection (1) only once.

Division 7 Directions about rehabilitation

274 Directions to carry out rehabilitation may be given if surrender refused

(1) This section applies if the administering authority decides to refuse a surrender application for an environmental authority for a resource activity.

(2) The administering authority may give the applicant a written direction (the ***surrender rehabilitation direction***) to carry out further stated rehabilitation within a stated reasonable period.

(3) The direction must be given to the applicant with the notice of the refusal of the application required under section 275(b).

(4) The notice of refusal must also include an information notice about the decision to give the direction.

(5) In this section—

rehabilitation includes environmental management.

Division 8 Miscellaneous provisions

275 Steps after deciding surrender application

The administering authority must, within 10 business days after deciding a surrender application—

(a) if the decision is to approve the surrender—

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(i) record, in the relevant register, the surrender and, if there is a post-surrender management report for land the subject of the application, the existence of the report; and

(ii) give the applicant—

(A) written notice of the decision; and

(B) an information notice about any decision under section 271 for the application; and

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

(iv) if there is a post-surrender management report for land the subject of the application—give written notice of the existence of the report to each owner or occupier of the land; or

(b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.

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

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(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.

275B Recording of residual risks

(1) This section applies if the administering authority approves a surrender application for which there is a post-surrender management report that includes a risk management plan for land the subject of the surrender application.

(2) As soon as practicable after approving the surrender application, the administering authority must give the registrar of titles written notice of the following—

(a) each lot (each an ***affected lot***), comprising or included in the land, in relation to which remedial action or ongoing management activities may need to be carried out;

(b) the existence of the relevant post-surrender management report for each affected lot.

(3) The notice must include particulars of each affected lot.

(4) The registrar must keep records that—

(a) show each affected lot is subject to residual risks; and

(b) state the places where the relevant post-surrender management report for each affected lot may be inspected.

(5) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to an affected lot will show—

(a) the affected lot is subject to residual risks; and

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(b) the existence of the relevant post-surrender management report for the affected lot.

(6) If the administering authority forms the belief that an affected lot is not or is no longer subject to residual risks—

(a) the administering authority must, as soon as practicable after forming the belief, give the registrar written notice of the belief; and

(b) the registrar must, as soon as practicable after receiving the notice under paragraph (a), remove the details mentioned in subsection (5)(a) and (b) for the affected lot from the registrar's records.

(7) In this section—

lot means—

(a) a lot under the *Land Title Act 1994*; or

(b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

relevant post-surrender management report, for an affected lot, means the post-surrender management report for the land, the subject of a surrender application, comprising or including the affected lot.

276 Restrictions on surrender taking effect if payment required for residual risks

(1) This section applies if the applicant has, under section 271, been required to pay an amount for residual risks of the area the subject of a surrender application.

(2) Despite section 275, a decision to approve the surrender does not take effect until the requirement has been complied with.

(3) Also, a decision to approve the surrender lapses if the applicant does not comply with the residual risks requirement within—

(a) the 6-month period mentioned in section 271(2) for the requirement; or

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(b) if the administering authority extends the period under section 273A—the extended period.

Part 11 Cancellation or suspension of environmental authorities

Division 1 Preliminary

277 Cancellation if replacement environmental authority given

(1) An environmental authority is cancelled if a replacement environmental authority for the authority has taken effect.

(2) The administering authority must, as soon as practicable after the replacement environmental authority takes effect, record particulars of the cancellation in the relevant register.

277A Cancellation of particular environmental authority on holder's request

(1) This section applies to an environmental authority that—

(a) is in effect on the commencement of the section; and

(b) is for a mining activity that—

(i) is an eligible ERA; and

(ii) is a small scale mining activity; and

(iii) is carried out under a mining claim or an exploration permit, including a mining claim that, under the Mineral Resources Act, section 816, has been converted from a mining lease.

(2) The holder of the environmental authority may give the chief executive a notice in the approved form asking the chief executive to cancel the authority.

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(3) On receiving a notice under this section, the chief executive must cancel the environmental authority.

(4) If the chief executive cancels an environmental authority, the chief executive must—

(a) give the holder notice of the cancellation; and

(b) record the cancellation in the relevant register.

(5) Divisions 2 and 3 do not apply to a cancellation of an environmental authority under this section.

(6) No amount of any annual fee paid by the holder is refundable to the holder because of a cancellation under this section.

278 Cancellation or suspension by administering authority

(1) The administering authority may cancel or suspend an environmental authority if an event mentioned in subsection (2) has happened and the procedure under division 2 is followed.

(2) For subsection (1), the events are as follows—

(a) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;

(b) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the notice given under section 311;

(baa) an application by the environmental authority holder made under section 312 to increase the amount of financial assurance given for the authority has been approved but the amount of the increase of the financial assurance has not been given;

(ba) the administering authority has, under section 315, required the holder of the environmental authority to change the amount of financial assurance and the holder has not complied with the requirement;

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(c) the administering authority has, under section 316(2)(b), directed the holder to replenish financial assurance for the environmental authority and the holder has not complied with the direction;

(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;

(d) the environmental authority holder is, after the giving of the environmental authority, convicted of an environmental offence;

(e) the environmental authority holder's registration as a suitable operator is cancelled or suspended, or is proposed to be cancelled or suspended, under chapter 5A, part 4, division 2;

(f) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with;

(g) if an SDA approval under the State Development Act is necessary under that Act for carrying out an environmentally relevant activity for the authority—the approval lapses or otherwise ends, or the Coordinator-General refuses to give the approval;

(h) if the authority is for a prescribed ERA—a development application for any necessary development permit for a material change of use of premises relating to the prescribed ERA lapses or is refused or withdrawn;

(i) if the authority is for a resource activity—a relevant tenure for the authority has not been granted under resource legislation.

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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.

278B Effect of suspension generally

(1) The suspension of a holder's environmental authority does not affect the continued application of the following provisions in relation to the holder—

(a) this division;

(b) part 6;

(c) part 10;

(d) part 14, division 3;

(e) chapter 7, parts 2 to 5C;

(f) chapter 8, part 2.

(2) A reference in a provision mentioned in subsection (1)—

(a) to the holder of an environmental authority includes a reference to the holder of the suspended authority; and

(b) to an environmental authority includes a reference to the suspended authority.

(3) Also, for applying a provision mentioned in subsection (1), a reference in chapter 11, part 3—

(a) to the holder of an environmental authority includes a reference to the holder of the suspended authority; and

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(b) to an environmental authority includes a reference to the suspended authority.

(4) This section does not limit a provision of this Act that, other than for this section, applies in relation to a suspended environmental authority.

Division 2 Procedure for cancellation or suspension by administering authority

279 Application of div 2

This division applies if the administering authority proposes to cancel, suspend or extend the suspension of an environmental authority.

280 Notice of proposed action

(1) The administering authority must give the environmental authority holder a written notice stating each of the following—

(a) the action (the ***proposed action***) the administering authority proposes taking under this division;

(b) the grounds for the proposed action;

(c) the facts and circumstances that are the basis for the grounds;

(d) if the proposed action is to suspend or extend the suspension of the environmental authority—the proposed suspension period or extended period of suspension;

(e) that the holder may, within a stated period, make written representations to show why the proposed action should not be taken.

(2) The stated period must end at least 20 business days after the holder is given the notice under subsection (1).

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(3) For subsection (1)(d), the proposed suspension period or extended period of suspension may be fixed by reference to a stated event.

Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance required under a condition of the environmental authority has not been given, the proposed suspension period or extended period of suspension may be stated as the period or extended period of suspension ending when the financial assurance is given.

281 Considering representations

The administering authority must consider any written representation made within the stated period by the environmental authority holder.

282 Decision on proposed action

(1) If, after complying with section 281, the administering authority still believes a ground exists to take the proposed action, it may—

(a) suspend or extend the suspension of the environmental authority for no longer than the proposed suspension period or extended period of suspension; or

(b) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.

(2) The decision under subsection (1) is the ***proposed action decision***.

(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the environmental authority holder written notice of the decision.

283 Notice of proposed action decision

(1) The administering authority must, within 10 business days after the proposed action decision is made, give the

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environmental authority holder an information notice about the decision.

(2) If the proposed action decision relates to an environmental authority for resource activities, the administering authority must also give written notice of the decision to the chief executive administering the resource legislation.

(3) The decision takes effect on the later of the following—

(a) the day the notice is given to the holder;

(b) a later day of effect stated in the notice.

(4) However, if the decision was to cancel, suspend or extend the suspension of the environmental authority because of the conviction of the holder for an offence, the cancellation, suspension or extended period of suspension—

(a) does not take effect until—

(i) the period to appeal against the conviction ends; and

(ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and

(b) has no effect if the conviction is quashed on appeal.

Division 3 Steps after making decision

284 Steps for cancellation or suspension

(1) This section applies if the proposed action decision is to take action and the decision has taken effect.

(2) The administering authority must, as soon as practicable—

(a) take the action; and

(b) record the action in the relevant register.

(3) Also, if the action is suspension or an extension of suspension of an environmental authority, the administering authority must record when the suspension period or extended period of suspension starts and ends in the relevant register.

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(4) A suspension or extension of suspension of an environmental authority ends at the end of the day recorded in the relevant register as the end of the suspension period or extended period of suspension.

284AA Cancellation after suspension if annual fee not paid

(1) This section applies if—

(a) the proposed action decision is to take action and the decision has taken effect; and

(b) the action is suspension or an extension of suspension of an environmental authority for a period or extended period ending when the annual fee for the environmental authority is paid; and

(c) the annual fee for the environmental authority is not paid within 20 business days after the proposed action decision takes effect.

(2) The administering authority may cancel the environmental authority if the procedure under division 2 is followed.

(3) The suspension period or extended period of suspension for the environmental authority continues until the earlier of the following—

(a) the end of the suspension period or extended period of suspension for the environmental authority;

(b) the cancellation of the environmental authority.

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Part 11A Suspension of environmental authorities by application

Division 1 Preliminary

284A Who may apply

(1) The holder of an environmental authority may, at any time, apply to the administering authority to suspend the environmental authority (a ***suspension application***).

(2) Also, the holder of a suspended environmental authority may, at any time during the suspension, apply to the administering authority to extend the period of the suspension (also a ***suspension application***).

Division 2 Suspension applications

284B Requirements for suspension application

(1) A suspension application must—

(a) be made to the administering authority; and

(b) be made in the approved form; and

(c) be accompanied by the fee prescribed under a regulation; and

(d) nominate the period of the proposed suspension or extension for the suspension.

(2) The nominated period of the proposed suspension or extension of suspension must be for 1, 2 or 3 years from—

(a) if the suspension application is for an extension of suspension—the day the existing suspension ends; or

(b) otherwise—the next anniversary day for the environmental authority.

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Division 3 Deciding suspension applications

284C Deciding suspension application

The administering authority must, within 20 business days after receiving the suspension application, decide whether to—

(a) approve the application; or

(b) refuse the application.

284D Criteria for deciding suspension application

In deciding the application, the administering authority must consider—

(a) the degree of risk of environmental harm that has already been caused by the relevant activity, or that might reasonably be expected to be caused during the suspension or extension of the suspension of 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 during the suspension or extension of the suspension of the relevant activity; and

(c) the environmental record of the holder.

284F Steps after deciding suspension application

(1) The administering authority must, within 5 business days after deciding a suspension application—

(a) if the decision is to approve the suspension or extension of suspension of the environmental authority—

(i) record the decision in the appropriate register, including when the suspension or extension of suspension starts and ends; and

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(ii) give the holder of the environmental authority written notice of the decision; or

(b) if the decision is to refuse the suspension or extension of suspension—give the holder an information notice about the decision.

(2) The notice given under subsection (1)(a)(ii) must include a statement about the continued application of provisions under section 278B in relation to the suspended authority.

(3) The environmental authority is suspended for the period stated in the decision notice, unless the holder of the environmental authority terminates the suspension before the end of the period of suspension or extension of suspension.

Division 4 Termination of suspension

284G Termination of suspension

(1) The holder of an environmental authority suspended under this part may, by notice given to the administering authority, terminate the suspension of the environmental authority.

(2) The notice—

(a) may be given—

(i) before the suspension takes effect; or

(ii) during the period of suspension or extension of suspension; and

(b) must be accompanied by the fee prescribed under a regulation.

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Part 12 Auditing PRCP schedules

Division 1 Requirements for audit

285 PRCP schedule must be audited if administering authority directs holder

(1) The administering authority may direct the holder of a PRCP schedule, by written notice (a ***PRCP schedule audit notice***) stating the matters mentioned in subsection (3), to commission an audit of the schedule.

(2) However, a PRCP schedule audit notice may be given under subsection (1) only if—

(a) the administering authority is satisfied the audit is necessary or desirable; and

(b) for a notice given within 3 years after the day the holder was last required to give an audit report for the PRCP schedule under this section—the administering authority is satisfied exceptional circumstances exist for the giving of the notice.

(3) The PRCP schedule audit notice must state—

(a) that the audit must be carried out by a rehabilitation auditor; and

(b) the period (the ***audit period***) for which the audit must be carried out.

(4) For subsection (3)(b), the period must be a reasonable period—

(a) starting no earlier than 3 years before the day the PRCP schedule audit notice is given; and

(b) ending no later than the day the notice is given.

(5) A PRCP schedule audit notice mentioned in subsection (2)(b) must be accompanied by or include an information notice about the decision to give the PRCP schedule audit notice.

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(6) Unless the holder has a reasonable excuse, the holder must, within 4 months after the PRCP schedule audit notice is given, 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.

(7) The declaration mentioned in subsection (6)(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,

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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 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

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.

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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 to act 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 either—

(a) all of the following apply—

(i) the holder has given the administering authority a plan of operations for the petroleum activities;

(ii) 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;

(iii) the plan complies with section 292;

(iv) the petroleum activity is carried out in the plan period; or

(b) all of the following apply—

(i) the holder has given the administering authority a replacement plan for the petroleum activities under section 293 at least 20 business days, or a shorter period agreed in writing by the administering

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authority and the holder, before the original plan ends;

(ii) the replacement plan complies with section 293;

(iii) the petroleum activity is carried out in the period for the replacement plan mentioned in section 293(7).

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;

(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

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(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—a replacement plan, in the approved form, that complies with section 292(1)(b) to (d); and

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(ii) a compliance statement for the original plan, as amended, or for the replacement plan; and

(iii) the fee prescribed by regulation.

Note—

See section 291(b) for conditions about when the holder of an environmental authority for a petroleum activity may carry out, or allow the carrying out of, the activity under the petroleum lease.

(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 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.

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Part 14 Matters relating to costs of rehabilitation

Division 1 Estimated rehabilitation costs for resource activities and ERC decisions

Subdivision 1 Preliminary

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).

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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—

(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.

Subdivision 2 Applications

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;

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(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 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 requires to make the ERC decision.

(2) The administering authority may, by written notice given to the holder, extend the period within which the administering authority may make a request under subsection (1) by no more than 10 business days.

(3) The notice mentioned in subsection (2)—

(a) may only be given once by the administering authority for the application; and

(b) must be given before the period mentioned in subsection (1) ends.

(4) The period within which the administering authority may make a request under subsection (1) may be further extended if the holder, at any time, agrees in writing to the further extension.

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(5) The notice asking the holder to provide further information must state a period of at least 10 business days within which the information must be given.

(6) If the holder does not comply with the notice, the administering authority may make the ERC decision without the further information.

Subdivision 3 Changing applications

299A Meaning of *minor ERC change*

A ***minor ERC change***, for an application for an ERC decision for a resource activity, is any of the following changes to the application—

(a) a change that merely corrects a mistake about the name or address of the applicant;

(b) a change that merely corrects a spelling or grammatical error;

(c) a change that the administering authority is satisfied would not adversely affect the ability of the authority to assess the changed application.

299B Changing application

(1) Before an ERC decision is made, the applicant may change the application by giving the administering authority written notice of the change.

(2) However, the applicant can not change the application in a way that would result in section 298 not being complied with for the application.

(3) A notice may be given under this section only once in relation to the application.

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299C Effect on ERC decision process

(1) The periods mentioned in section 299 and 300 are not affected by the making of a change to the application if—

(a) the change is a minor ERC change; or

(b) the administering authority agrees in writing to this subsection applying in relation to the change.

(2) If subsection (1) does not apply in relation to the change, sections 299 and 300 apply in relation to the changed application as if it were a new application received by the administering authority when notice of the change was given to the administering authority under section 299B(1).

Subdivision 4 ERC decisions

300 Making ERC decision

(1) After receiving an application for an ERC decision for a resource activity, 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

(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 given under section 299(1) is given to the holder of the environmental authority—10 business days after the day the further information

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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) However, if the decision is for an application that accompanied a de-amalgamation application, the decision must be made—

(a) within the longer of the periods mentioned in subsection (3) that applies to a decision for any of the proposed de-amalgamated environmental authorities to which the application relates; and

(b) at the same time as the decision under this section for each of the proposed de-amalgamated environmental authorities to which the application relates.

(5) 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.

(6) The ERC decision—

(a) takes effect on—

(i) if the decision is for an application that accompanied a de-amalgamation application—the day the de-amalgamation takes effect under section 250D; or

(ii) otherwise—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.

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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

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

Maximum penalty—100 penalty units.

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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) becomes aware an ERC decision was made on the basis of materially incorrect or misleading information.

(2) The administering authority—

(a) may decide to direct the holder to re-apply, under section 298 for an ERC decision for the resource activity; and

(b) must give the holder 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.

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

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(c) the holder's annual return given under section 316IA 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.

(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 authority amalgamates the environmental authorities under section 248.

Maximum penalty—100 penalty units.

305 Current decision continues in force if application made but not decided before ERC period ends

(1) This section applies if—

(a) a current decision is in force in relation to a resource activity; and

(b) an application for a new ERC decision is made under section 298 but has not been decided before the ERC period for the current decision ends.

(2) The current decision remains in force until the day the application for the new ERC decision is decided.

(3) The ERC period for the current decision is taken to end when the new ERC decision is made.

(4) In this section—

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current decision, for the holder of an environmental authority for a resource activity, means the ERC decision in force when the holder applies for a new ERC decision under this subdivision.

306 Effect of 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 approves an application to amalgamate the environmental authority for the resource activity with another environmental authority under section 247.

(2) 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) An ERC decision mentioned in subsection (2)(b) remains in force for a relevant activity until the day a new ERC decision is made for the activity.

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(4) The *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 26 does not apply to an ERC decision mentioned in subsection (2)(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.

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.

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(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 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 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.

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(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 considers necessary to decide the application.

313 Administering authority may require compliance statement

(1) This section applies to an application under section 312.

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(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.

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(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.

(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—

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(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—

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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.

316C Application of division

(1) This division applies if the administering authority, or the State, 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.

(2) If the State incurs, or might reasonably incur, the costs and expenses, the administering authority may act under this division on behalf of the State.

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

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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.

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.

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(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.

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 14A Temporary authorities for emergency situations

Division 1 Preliminary

316GA Definitions for part

In this part—

emergency situation means—

(a) an emergency for which an authorised person may give an emergency direction or take an action under section 467; or

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(b) a biosecurity event for which a biosecurity emergency order is made under the *Biosecurity Act 2014*, section 113; or

(c) a disaster situation declared under the *Disaster Management Act 2003*, part 4; or

(d) the following under the *Fire Services Act 1990*—

(i) a state of fire emergency declared under section 145T of that Act;

(ii) a situation in relation to which an authorised fire officer may take measures under section 149I of that Act; or

(e) an emergency situation declared to exist under the *Public Safety Preservation Act 1986*, section 5; or

(f) a public health emergency for which a public health emergency order is declared under the *Public Health Act 2005*; or

(g) a radiation source in relation to which an inspector may exercise a power under the *Radiation Safety Act 1999*, section 148; or

(h) a discharge, or likely discharge, of pollutant into coastal waters for which an authorised officer may exercise a power under the *Transport Operations (Marine Pollution) Act 1995*, section 95.

existing ERA, in relation to an emergency situation, means an environmentally relevant activity—

(a) for which an environmental authority is in effect; and

(b) that has increased or is likely to increase in intensity or scale as a result of the emergency situation; and

(c) for which, other than for this part, either of the following would be required—

(i) an amendment of the environmental authority;

(ii) another environmental authority.

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new ERA, in relation to an emergency situation, means an activity that—

(a) before the start of the emergency situation, was not carried out, or was not an environmentally relevant activity; and

(b) as a result of the emergency situation—

(i) is, or is likely to be, carried out, or has increased, or is likely to increase, in intensity or scale; and

(ii) becomes an environmentally relevant activity for which, other than for this part, an environmental authority would be required.

relevant ERA means either of the following activities in relation to an emergency situation—

(a) an existing ERA;

(b) a new ERA.

temporary authority see section 316GC(1).

316GB Exclusion of s 23 in particular circumstances

(1) This section applies if, because of the operation of section 23 and other than for this section, a person would be required under a prevailing Act mentioned in section 23(2) to carry out a relevant ERA in relation to an emergency situation.

(2) Neither section 23(2) nor the prevailing Act limits the application of section 426 of this Act to the person in relation to the relevant ERA.

(3) However, it is a defence for an offence against section 426 if the person proves it would not be reasonable for the person to be required to comply with section 426, having regard to the requirement to which the person is subject under the prevailing Act.

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Division 2 Temporary authorities

316GC Making application

(1) A person may apply to the administering authority for an authority (a ***temporary authority***) to carry out a relevant ERA in relation to an emergency situation on a temporary basis.

(2) The application must—

(a) be in writing; and

(b) include a description of—

(i) the emergency situation; and

(ii) the reasons why the activity the subject of the application is a relevant ERA in relation to the emergency situation; and

(c) be accompanied by any documents relevant to a matter mentioned in paragraph (b).

316GD Deciding application

(1) The administering authority must consider the application and decide to—

(a) grant the temporary authority; or

(b) refuse the temporary authority.

(2) The administering authority may grant the temporary authority only if the administering authority is satisfied—

(a) the application relates to a relevant ERA in relation to an emergency situation; and

(b) that granting the temporary authority is a necessary and reasonable response to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation.

(3) If the administering authority decides to refuse the application the administering authority must, as soon as practicable after

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making the decision, give the applicant an information notice for the decision.

316GE Administering authority may impose conditions

(1) This section applies if the administering authority decides to grant the temporary authority to the applicant.

(2) The administering authority may impose on the authority the conditions the administering authority considers necessary or desirable to respond to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation.

(3) Before imposing conditions under subsection (2) the administering authority must notify the applicant of the following matters—

(a) the proposed conditions;

(b) that the applicant may make submissions about the proposed conditions within a stated reasonable period.

(4) In deciding whether to impose the conditions the administering authority must have regard to any submissions made by the applicant within the stated period.

(5) However, the administering authority need not comply with subsections (3) and (4) if the administering authority considers complying with those subsections would delay the grant of the temporary authority to the detriment of the applicant, having regard to—

(a) the nature and urgency of the application; and

(b) the emergency situation to which the application relates.

316GF Granting authority

(1) If the administering authority decides to grant the temporary authority, the administering authority must give the temporary authority to the applicant.

(2) The temporary authority must state—

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(a) the name of the applicant; and

(b) the relevant ERA that may be carried out under the authority; and

(c) any conditions imposed on the temporary authority under section 316GE; and

(d) the period for which the temporary authority has effect, including the days on which the period starts and ends.

(3) The period mentioned in the temporary authority under subsection (2)(d) must—

(a) be no longer than the period the administering authority considers necessary to respond to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation; and

(b) end no later than the day that is 4 months after the day the temporary authority is granted.

316GG Effect

(1) For the period a temporary authority is in effect for a relevant ERA—

(a) the temporary authority is taken, other than for this chapter, to be an environmental authority for the relevant ERA; and

(b) if the relevant ERA is an existing ERA—

(i) the conditions of the temporary authority apply in addition to the conditions of the environmental authority for the existing ERA; and

(ii) to the extent there is an inconsistency between the conditions of the temporary authority and the conditions of the environmental authority, the conditions of the temporary authority prevail.

(2) More than 1 temporary authority may be granted under this division in relation to the same relevant ERA.

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Part 15 General provisions

Division 1 Requirement for holders of PRC plans

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.

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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

(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.

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(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.

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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 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.

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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.

(2) The administering authority may require the holder of the environmental authority to—

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(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 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 for 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 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.

316S Direction to carry out rehabilitation if no PRCP schedule

(1) This section applies in relation to the holder of an environmental authority issued for a site-specific application for a mining activity relating to a mining lease if—

(a) the holder does not also hold a PRCP schedule to which the environmental authority relates, whether or not section 431A applies to the holder; and

(b) section 274 does not apply in relation to the environmental authority.

(2) The administering authority may give the holder a written direction (the ***general rehabilitation direction***) to carry out stated rehabilitation within a stated reasonable period.

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(3) The general rehabilitation direction must include an information notice about the decision to give the direction.

(4) In this section—

rehabilitation includes environmental management.

Chapter 5A General provisions about environmentally relevant activities

Part 1 ERA standards

317 Definitions for pt 1

In this part—

consultation period, for an ERA standard, see section 318A(1)(b)(ii).

ERA standard means a standard made under section 318.

relevant existing authority, for an ERA standard, means an environmental authority—

(a) issued before the ERA standard is made; and

(b) subject to conditions identified in the authority as standard conditions for the environmentally relevant activity to which the ERA standard relates.

318 Chief executive may make ERA standard

(1) The chief executive may make a standard for—

(a) the eligibility criteria for an environmentally relevant activity; and

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(b) the standard conditions for an environmentally relevant activity.

(2) An ERA standard mentioned in subsection (1) may state that the standard conditions apply to relevant existing authorities.

318A Notice of proposed ERA standards

(1) Before the chief executive makes an ERA standard, the chief executive must publish the following on the department's website—

(a) a copy of the proposed ERA standard;

(b) a notice stating—

(i) that a person may make a submission to the chief executive about the proposed ERA standard; and

(ii) the period, of at least 30 business days, (the ***consultation period***) during which a submission may be made; and

(iii) how to make a submission; and

(iv) if standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities—that the standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities.

(2) The chief executive must ensure the documents mentioned in subsection (1) are published on the department's website throughout the consultation period.

(3) Subsections (4) and (5) apply if standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities.

Note—

The administering authority may amend a relevant existing authority to reflect new standard conditions in particular circumstances. See section 213.

(4) The chief executive must give written notice about the proposed ERA standard to each holder of a relevant existing

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authority that is in effect immediately before the consultation period starts under subsection (1) and for which the proposed standard conditions in the ERA standard will apply.

(5) A notice under subsection (4) must state—

(a) that the chief executive proposes to make an ERA standard that will apply to the holder's relevant existing authority; and

(b) details of the department's website address; and

(c) that the holder may make a submission to the chief executive about the proposed ERA standard during the consultation period.

318B Consideration of submissions

The chief executive must consider all submissions made during the consultation period before deciding whether to make the ERA standard.

318C Publication of ERA standard

The chief executive must publish a copy of each ERA standard made by the chief executive on the department's website.

318D Approval of ERA standard by regulation

An ERA standard takes effect when it is approved by a regulation.

318DA Minor amendment of ERA standard

(1) The chief executive may make a minor amendment of an ERA standard by publishing a copy of the amended ERA standard on the department's website.

(2) The amended ERA standard takes effect when it is approved by a regulation.

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(3) In this section—

minor amendment, of an ERA standard, means an amendment of the standard—

(a) to change a title or department name; or

(b) to correct a spelling or grammatical error; or

(c) to change terminology that has no effect on the operation of the standard; or

(d) to make another change the chief executive is satisfied is not a change of substance.

Note—

An amendment of an ERA standard other than a minor amendment is made by the making of a new ERA standard.

Part 4 Registration of suitable operators

Division 1 Applications for registration

318F Application for registration

(1) A person may apply to be registered as a suitable operator for the carrying out of an environmentally relevant activity.

(2) The application must—

(a) be made to the chief executive in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(3) The applicant may withdraw the application at any time before it is decided.

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318G Deciding application

The chief executive must decide to refuse or approve the application within—

(a) if the chief executive obtains a suitability report about the applicant under section 318R—20 business days after receiving the application; or

(b) otherwise—10 business days after receiving the application.

318H Grounds for refusing application for registration

The chief executive may refuse the application if satisfied that—

(a) the applicant is not suitable to be registered as a suitable operator having regard to the applicant's environmental record; or

(b) for an applicant that is not a corporation—a disqualifying event has happened in relation to the applicant or another person of whom the applicant is a partner; or

(c) for an applicant that is a corporation—a disqualifying event has happened in relation to—

(i) any of the corporation's executive officers; or

(ii) another corporation of which any of the corporation's executive officers are, or have been, an executive officer.

318I Steps after deciding application for registration

(1) If the chief executive decides to approve the application, the chief executive must, within 5 business days after deciding the application—

(a) give the applicant written notice stating that the application is approved; and

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(b) include the applicant's name and address in the register of suitable operators.

(2) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice about the decision within 5 business days after deciding the application.

(3) Subsection (4) applies if—

(a) the application was made together with an application for an environmental authority under chapter 5; and

(b) the administering authority for the application is not the chief executive.

(4) The chief executive must also give the administering authority notice of the decision.

318J Term of registration

(1) A registered suitable operator's registration—

(a) has effect from the day the operator's name and address is included in the register of suitable operators; and

(b) continues in force until it ends under subsection (2) or is cancelled or suspended under division 2.

(2) A registered suitable operator's registration ends at the completion of a period of 5 years for which the operator was not the holder of an environmental authority.

Division 2 Cancelling or suspending registration

318K Cancellation or suspension of registration

The chief executive may cancel or suspend a registration under this part if—

(a) a disqualifying event has happened for—

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(i) the registered suitable operator or another person of whom the operator is partner; or

(ii) if the operator is a corporation—

(A) any of the corporation's executive officers; or

(B) another corporation of which any of the corporation's executive officers are, or have been, an executive officer; or

(b) the chief executive is satisfied the operator is not suitable to be registered as a suitable operator having regard to the operator's environmental record.

318L Notice of proposed action

(1) If the chief executive proposes to cancel or suspend a registration, the chief executive must give the registered suitable operator a written notice stating—

(a) the action (the ***proposed action***) the chief executive proposes taking under this division; and

(b) the grounds for the proposed action; and

(c) the facts and circumstances that are the basis for the grounds; and

(d) if the proposed action is to suspend the registration—the proposed suspension period; and

(e) that the operator may make, within a stated period, written representations to show why the proposed action should not be taken.

(2) The stated period must end at least 20 business days after the operator is given the written notice.

(3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

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318M Considering representations

The chief executive must consider any written representations made by the registered suitable operator within the stated period.

318N Decision on proposed action

(1) After complying with section 318M, the chief executive must decide to—

(a) if the proposed action was to suspend the registration for a stated period—suspend the registration for no longer than the stated period; or

(b) if the proposed action was to cancel the registration—

(i) cancel the registration; or

(ii) suspend it for a fixed period; or

(c) take no further action.

(2) The decision under subsection (1) is the ***proposed action decision***.

318O Notice of proposed action decision

(1) If the proposed action decision is to cancel or suspend the registration, the chief executive must—

(a) give the registered suitable operator an information notice about the decision within 10 business days after the decision is made; and

(b) if the operator is the holder of, or is acting under, an environmental authority for a resource activity—give written notice of the decision to the chief executive administering the resource legislation.

(2) If the proposed action decision is to take no further action, the chief executive must, within 10 business days after the decision is made, give the registered suitable operator written notice of the decision.

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318P When decision takes effect

(1) If the proposed action decision is to cancel or suspend the registration, the decision takes effect on the later of the following—

(a) the day the information notice is given to the operator under section 318O(1)(a);

(b) a later day of effect stated in the notice.

(2) However, if the decision was to cancel or suspend the registration because of the conviction of the operator for an offence, the cancellation or suspension—

(a) does not take effect until—

(i) the period to appeal against the conviction ends; and

(ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and

(b) has no effect if the conviction is quashed on appeal.

318Q Steps for cancelling or suspending registration

(1) This section applies if the proposed action decision is to cancel or suspend the registration and the decision has taken effect.

(2) The chief executive must, within 10 business days—

(a) take the action; and

(b) record particulars of the action in the relevant register.

(3) If the action is suspension of the registration—

(a) the particulars must state when the suspension period starts and ends; and

(b) the suspension ends when the suspension period is stated to end.

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Division 3 Investigating suitability

318R Investigation of applicant suitability or disqualifying events

(1) The chief executive may investigate a person or another entity to help decide whether—

(a) an applicant is suitable to be a registered suitable operator; or

(b) a disqualifying event has happened in relation to the person or entity.

(2) The chief executive may obtain a report on the person or entity from an administering authority of another State under a corresponding law about a matter mentioned in subsection (1).

(3) The commissioner of the police service must, if asked by the chief executive, give the chief executive a written report about any convictions, other than spent convictions, for environmental offences recorded against the person or entity obtained from—

(a) information in the commissioner's possession; and

(b) information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions.

(4) In this section—

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

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318S Use of information in suitability report

(1) This section applies if the chief executive is considering information contained in a report about a person or entity obtained under section 318R (a ***suitability report***).

(2) The information must not be used for any purpose other than to make the decision for which the report was obtained.

(3) In making the decision, the chief executive must have regard to the following matters relating to information about the commission of an offence by the person or entity—

(a) when the offence was committed;

(b) the nature of the offence and its relevance to the decision.

318T Notice of use of information in suitability report

Before using information contained in a suitability report to assess a matter mentioned in section 318R(1), the chief executive must—

(a) disclose the information to the person or entity to whom the report relates; and

(b) allow the person or entity a reasonable opportunity to make representations to the chief executive about the information.

318U Confidentiality of suitability reports

(1) This section applies to a person who—

(a) is, or has been, a public service employee; and

(b) has, in that capacity acquired information, or gained access to a suitability report about another person or entity (the ***second entity***).

(2) The person must not disclose the information, or give access to the report, to anyone else.

Maximum penalty—100 penalty units.

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(3) However, subsection (2) does not apply if the disclosure of the information, or giving of access to the report, is—

(a) with the second entity's written consent; or

(b) to another public service employee for making the decision for which the report was obtained; or

(c) to the Land Court or the Court; or

(d) to a person carrying out functions for the Land Court, Court or chief executive; or

(e) to a person employed or engaged to give advice to the Land Court, Court or chief executive in the carrying out of its functions; or

(f) under a direction or order made in a proceeding; or

(g) expressly permitted or required under another Act.

318V Destruction of suitability reports

(1) This section applies if the chief executive has obtained a suitability report and made the decision for which the report was obtained.

(2) The chief executive must destroy the report as soon as practicable after the later of the following—

(a) if the report wholly or partly relates to a conviction for an environmental offence—

(i) if an appeal is made against the conviction—the deciding or other ending of the appeal and any appeal from that appeal; or

(ii) otherwise—the end of the period to appeal against the conviction;

(b) the end of the period under this Act to appeal against, or apply for a review of, the decision;

(c) the deciding or other ending of an appeal or review mentioned in paragraph (b) and any appeal from that appeal or review.

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Part 5 Work diary requirements for particular registered suitable operators

318W Application of pt 5

(1) This part applies to a registered suitable operator carrying out a prescribed ERA that is a mobile and temporary environmentally relevant activity, unless the activity is regulated waste transport.

(2) In this section—

regulated waste transport means a prescribed ERA prescribed under a regulation for this section, relating to the transport of waste.

318X Requirement to keep work diary

(1) A registered suitable operator must keep a work diary in the approved form for a mobile and temporary environmentally relevant activity carried out by the operator.

Maximum penalty—100 penalty units.

(2) The approved form must provide for the inclusion of the following—

(a) details of each location at which the mobile and temporary environmentally relevant activity is carried out by the registered suitable operator;

(b) the days on which the activity is carried out by the operator.

(3) The registered suitable operator must record the information required under the approved form within 1 day after the day the operator vacates each location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

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(4) The registered suitable operator must keep the work diary for 2 years after the day on which the operator vacates the last location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

318Y Requirement to notify chief executive if work diary lost or stolen

(1) A registered suitable operator who becomes aware that the operator's work diary has been lost or stolen must, within 7 business days, give the chief executive written notice that the diary has been lost or stolen, unless the operator has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) In this section—

work diary, of a registered suitable operator, means the work diary the operator keeps under section 318X.

Part 5A Accreditation programs for agricultural ERAs

Division 1 Preliminary

318YA Definitions for part

In this part—

accreditation program, for an agricultural ERA, see section 318YB.

accredited, under a recognised accreditation program for an agricultural ERA, means accredited under the program as carrying out the agricultural ERA in compliance with the requirements of the program.

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owner, of an accreditation program, means a person who has the right to manage, administer and change the accreditation program.

recognised accreditation program, for an agricultural ERA, means an accreditation program recognised under this part by the chief executive for the agricultural ERA.

318YB What is an *accreditation program*

An ***accreditation program*** for an agricultural ERA is a program that provides for the following functions in relation to carrying out the agricultural ERA—

(a) setting requirements (***program requirements***) for carrying out the agricultural ERA that are consistent with an agricultural ERA standard that applies to the agricultural ERA;

(b) accrediting persons who carry out the agricultural ERA in compliance with the program requirements, including—

(i) setting the terms and conditions of accreditation; and

(ii) auditing a person's compliance with the program requirements and the person's accreditation; and

(iii) responding to a person's non-compliance with the program requirements or the person's accreditation, including by suspending or cancelling the person's accreditation;

(c) reviewing decisions and resolving disputes under the program;

(d) maintaining a register of persons accredited under the program and making the register available to the chief executive and authorised persons;

(e) collecting and reporting information about the operation of the program and the accreditation of persons under the program;

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(f) regularly reviewing and evaluating the program.

Division 2 Recognition of accreditation program

318YC Application

(1) The owner of an accreditation program for an agricultural ERA may apply to the chief executive for the program to be recognised for the agricultural ERA.

(2) The application must be in the approved form and accompanied by information about—

(a) the governance and administration arrangements for the ownership, operation and management of the accreditation program; and

(b) the arrangements, procedures and controls for each of the functions of an accreditation program mentioned in section 318YB.

318YD Criteria for recognition

The chief executive may recognise an accreditation program for an agricultural ERA if the chief executive is satisfied the program—

(a) has governance and administration arrangements that appropriately provide for the ownership, operation and management of the program; and

(b) has arrangements, procedures and controls that provide a sound basis for the operation of a program that provides for each of the functions mentioned in section 318YB; and

(c) complies with other criteria prescribed by regulation.

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318YE Conditions of recognition

(1) This section applies if the chief executive recognises an accreditation program for an agricultural ERA.

(2) The recognition is granted on the following conditions—

(a) a person may only be accredited, however described, under the program if the person, in carrying out the agricultural ERA, does not contravene an agricultural ERA standard that applies to the agricultural ERA;

(b) the owner of the program must make and keep records about decisions made to accredit persons under the program;

(c) the owner of the program must keep an up-to-date register of persons who have been accredited under the program that contains, for each person—

(i) the person's name, ACN or ABN (if any) and contact details; and

(ii) the address of the land on which the person carries out the agricultural ERA; and

(iii) the term of the accreditation; and

(iv) the conditions (if any) imposed on the person's accreditation; and

(v) another matter prescribed by regulation;

(d) the owner of the program must give the chief executive a copy of the register mentioned in paragraph (c) each year, within 10 business days after the anniversary of the program's recognition;

(e) the condition stated in subsection (3);

(f) another condition imposed by the chief executive.

(3) If an agricultural ERA standard that applies to the agricultural ERA changes, the owner of the recognised accreditation program must—

(a) review the program for consistency with the changed standard; and

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(b) if the program is not consistent with the changed standard, within 3 months after the changed standard is approved under section 318D—

(i) amend the program so it is consistent with the changed standard; and

(ii) give a copy of the amended program to the chief executive.

(4) The chief executive may impose conditions on the recognition of an accreditation program when—

(a) the recognition is granted; or

(b) amendment of the recognised accreditation program is approved.

318YF Term of recognition

(1) Recognition of an accreditation program for an agricultural ERA remains in force for the period, of not more than 5 years, decided by the chief executive and stated in the instrument of recognition.

(2) Subsection (1) does not apply if the recognition is cancelled before the period ends.

Division 3 Renewal of recognition of accreditation program

318YG Assessment of program

(1) Before applying for renewal of the recognition of an accreditation program for an agricultural ERA, the owner of the program must have the management and operation of the program assessed under this section by a person approved by the chief executive.

(2) On request by the owner of the program, the chief executive may approve a stated person to carry out the assessment if the chief executive is satisfied the person is—

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(a) appropriately qualified to carry out the assessment; and

(b) not employed, engaged or otherwise involved in the operation or management of the program.

(3) The matters assessed by the person must include—

(a) the operation of the program in relation to providing the functions mentioned in section 318YB; and

(b) the arrangements, procedures and controls that are in place for each of the functions.

(4) The assessment must not be started earlier than 1 year before the term of the recognition ends.

318YH Renewal of recognition of program

(1) The owner of an accreditation program for an agricultural ERA may apply to the chief executive for renewal of the recognition of the program before the recognition expires.

(2) The application must be—

(a) in the approved form; and

(b) accompanied by a report of the assessment carried out under section 318YG, prepared by the person who carried out the assessment, that includes the matters mentioned in section 318YG(3)(a) and (b).

(3) In deciding the application, the chief executive must consider—

(a) the assessment report; and

(b) the criteria under section 318YD for deciding an application for recognition of an accreditation program for an agricultural ERA.

318YI Approval continues pending decision about renewal

(1) This section applies if the owner of an accreditation program for an agricultural ERA applies for renewal of the recognition

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of the program under section 318YH at least 60 days before the term of the recognition ends.

(2) The recognition continues in force after it would otherwise expire until—

(a) the application for renewal is withdrawn; or

(b) if the application for renewal is approved—the application is decided; or

(c) if the application for renewal is refused—the chief executive gives an information notice for the decision to the applicant; or

(d) the owner's approval is suspended or cancelled before the application for renewal is decided or withdrawn.

Division 4 Application to amend recognised accreditation program or conditions

318YJ Application to approve amendment of recognised accreditation program or condition

(1) The owner of a recognised accreditation program for an agricultural ERA may apply to the chief executive to—

(a) approve an amendment of the program; or

(b) amend a condition imposed on the recognition of the program.

(2) The application must—

(a) be in the approved form; and

(b) include sufficient information about the proposed amendment for the chief executive to decide the application.

(3) This section does not apply to an amendment of a recognised accreditation program for an agricultural ERA if the owner of the program is required to make the amendment under a condition mentioned in section 318YE(3).

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318YK Deciding amendment application

In deciding the application, the chief executive must consider the criteria mentioned in section 318YD for deciding an application for recognition of an accreditation program for an agricultural ERA.

Division 5 General provisions for applications

318YL Application of division

This division applies for deciding applications under this part.

318YM Inquiry about application

(1) Before deciding the application, the chief executive may, by a written notice given to the applicant, require the applicant to give the chief executive, within the reasonable period of at least 30 days stated in the notice, the further information the chief executive requires to decide the application.

(2) The applicant is taken to have withdrawn the application if the applicant does not comply with the requirement under subsection (1) within the stated period.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information under subsection (1) must, if the notice requires, be verified by statutory declaration.

318YN Decision on application

(1) The chief executive must consider the application and decide to—

(a) approve the application; or

(b) approve the application on conditions; or

(c) refuse the application.

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(2) If the chief executive decides to approve the application, the chief executive must give the applicant a notice about the decision.

(3) If the chief executive decides to refuse the application, or impose conditions on a person's approval, the chief executive must give the applicant an information notice for the decision as soon as practicable after making the decision.

318YO Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after receiving it, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application under this part; and

(b) the chief executive has, under section 318YM(1), required the applicant to give the chief executive further information.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 6 Amendment, suspension and cancellation by chief executive

318YP Amendment by chief executive

(1) If the chief executive believes a recognised accreditation program should be amended, the chief executive may direct the owner to amend the program under this division.

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(2) If the chief executive believes a condition of the recognition of the program should be amended, the chief executive may amend the condition under this division.

318YQ Grounds for suspending or cancelling program recognition

Each of the following is a ground for suspending or cancelling recognition of an accreditation program—

(a) the recognition was obtained by materially incorrect or misleading information or by a mistake;

(b) the owner of the program has contravened a condition of the recognition;

(c) the owner of the program has committed—

(i) an offence against this Act; or

(ii) an offence against a law relating to the supply or use of an agricultural chemical product; or

(iii) an offence against a law of the Commonwealth, another State or a foreign country that substantially corresponds to an offence mentioned in subparagraph (i) or (ii).

318YR Show cause notice

(1) The chief executive must give a notice under this section (a ***show cause notice***) to the owner of a recognised accreditation program if the chief executive proposes to take any of the following actions (the ***proposed action***)—

(a) direct the owner to amend the program;

(b) amend a condition of the recognition of the program;

(c) suspend or cancel the recognition of the program.

(2) The show cause notice must state each of the following—

(a) the proposed action;

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(b) if the proposed action is to direct the owner to amend the accreditation program or a condition of the program's recognition—

(i) the proposed amendment; and

(ii) the reasons for the proposed amendment;

(c) if the proposed action is to suspend or cancel the recognition of the program—

(i) the ground for the proposed action; and

(ii) an outline of the facts and circumstances forming the basis for the ground;

(d) if the proposed action is to suspend the recognition of the program—the proposed suspension period;

(e) that the holder may, within a stated period (the ***show cause period***), make written representations to the chief executive to show why the proposed action should not be taken.

(3) The show cause period must end at least 28 days after the holder is given the show cause notice.

318YS Representations about show cause notice

(1) The owner of the accreditation program may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all representations made during the show cause period.

318YT Ending show cause process without further action

(1) This section applies if, after considering the representations made during the show cause period, the chief executive—

(a) if the proposed action was to direct the owner of the accreditation program to amend the program or to amend a condition of the recognition of the

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program—no longer considers the program or condition should be amended; or

(b) if the proposed action was to suspend or cancel the recognition of the program—

(i) no longer believes a ground exists to suspend or cancel the recognition of the program; or

(ii) no longer believes taking the proposed action is warranted.

(2) The chief executive must—

(a) take no further action about the show cause notice; and

(b) give a notice that no further action is to be taken about the show cause notice to the owner of the accreditation program.

318YU Amendment, suspension or cancellation

(1) Subsection (2) applies if, after considering any representations made during the show cause period, the chief executive—

(a) if the proposed action was to suspend or cancel the recognition of the accreditation program—believes a ground exists for suspension or cancellation; and

(b) believes taking the proposed action is warranted.

(2) The chief executive may—

(a) if the proposed action was to direct the owner of the accreditation program to amend the program in a stated way—direct the owner to make the stated amendment; or

(b) if the proposed action was to amend a condition of recognition of the program in a stated way—make the stated amendment; or

(c) if the proposed action was to suspend the recognition of the program for a stated period—suspend the recognition for no longer than the stated period; and

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(d) if the proposed action was to cancel the recognition of the program—suspend the recognition for a stated period or cancel the recognition.

(3) If the chief executive decides to act under subsection (2), the chief executive must give an information notice for the decision to the owner of the accreditation program as soon as is practicable.

(4) The decision takes effect on—

(a) the day the information notice is given to the person; or

(b) a later day stated in the information notice.

318YV Immediate suspension of recognition of accreditation program

(1) This section applies if the chief executive believes—

(a) a ground exists to suspend the recognition of an accreditation program; and

(b) it is necessary to suspend the recognition of the program immediately because—

(i) persons who are carrying out an agricultural ERA in a way that contravenes an agricultural ERA standard have been accredited under the program; or

(ii) there is an immediate and serious risk that persons who are carrying out an agricultural ERA in a way that contravenes an agricultural ERA standard will be accredited under the program.

(2) The chief executive may suspend the recognition of the accreditation program immediately by giving the owner of the accreditation program—

(a) an information notice for the decision to immediately suspend the recognition; and

(b) a show cause notice for the suspension or cancellation of the recognition under section 318YR.

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(3) The suspension—

(a) operates when the notices are given to the owner of the accreditation program; and

(b) continues to operate until the earliest of the following—

(i) the chief executive cancels the suspension;

(ii) the show cause notice is finally dealt with by a notice given under section 318YT or 318YU;

(iii) 45 days after the notices are given to the person.

318YW Required action after amendment, suspension, cancellation or end of accreditation program or recognition

(1) This section applies to the owner of an accreditation program if—

(a) the program is amended; or

(b) the recognition of the program is suspended or cancelled under section 318YU or 318YV; or

(c) the owner of the program stops providing the program.

(2) The owner must give written notice about the amendment, suspension, cancellation or ending of the program, to each person who is accredited under the accreditation program within 5 business days after the amendment, suspension, cancellation or ending takes effect.

Maximum penalty—100 penalty units.

(3) If the recognition of the accreditation program is suspended, the notice under subsection (2) must state the period of the suspension.

(4) Within 5 business days after giving a notice to the accredited persons under subsection (2), the owner must give the chief executive—

(a) a copy of the notice; and

(b) the name of each accredited person given the notice.

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Maximum penalty—100 penalty units.

Part 6 Progressive certification for resource activities

Division 1 Preliminary

318Z What is *progressive certification*

(1) The administering authority may, under this division, certify that a particular area within a relevant tenure for a resource project has been rehabilitated under all relevant requirements of—

(a) this Act; and

(b) the environmental authority under which the resource project is authorised; and

(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.

(2) The certification is a ***progressive certification*** for the relevant tenure.

(3) The area the subject of the progressive certification is a ***certified area*** for the relevant tenure.

318ZA Effect of progressive certification

(1) If progressive certification has been given for a relevant tenure, the requirements mentioned in section 318Z(1) are taken to have been complied with for the certified area for the tenure.

(2) Subsection (1) applies despite another provision of this Act or any change in the requirements.

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(3) However, this section is subject to section 318ZB.

318ZB Continuing responsibility of holder relating to certified area

(1) This section applies if progressive certification has been given for a relevant tenure.

(2) The holder of the environmental authority to which the relevant tenure relates must maintain the certified area for the relevant tenure under the conditions of the authority, or rehabilitation milestones or management milestones under a PRCP schedule, in force when the certification was given (the ***existing conditions***).

(3) Any change to the conditions of the environmental 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 area than an obligation applying under the existing conditions or milestones.

Example of a change to impose a more stringent requirement—

A change to an existing condition to require rehabilitation to alter a gradient to a lower slope is more stringent because of the necessarily increased costs of recontouring the gradient.

(4) The obligation under subsection (2) ends on the last of the following to happen—

(a) the surrender under resource legislation of the relevant tenure, or part of the relevant tenure;

(b) the environmental authority or PRCP schedule ends or ceases to have effect;

(c) if the existing conditions include a condition requiring compliance with an obligation after the authority ends or ceases to have effect—compliance with the condition.

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Division 2 Applying for progressive certification

318ZC Who may apply for progressive certification

The holder of an environmental authority for a resource project may apply for progressive certification (the ***progressive certification application***) for a relevant tenure for the environmental authority.

318ZD Requirements for progressive certification application

(1) The application must be—

(a) in the approved form; and

(b) supported by enough information to enable the administering authority to decide the application; and

(c) accompanied by—

(i) a progressive certification report for the environmental authority, and any PRCP schedule relating to the environmental authority, that complies with section 318ZF; and

(ii) a compliance statement for the report; and

(iii) the fee prescribed under a regulation.

(2) The compliance statement must—

(a) be made for the environmental authority holder; and

(b) state—

(i) the extent to which activities carried out under the environmental authority relating to the proposed certified area for the relevant tenure have complied with the conditions of the environmental authority and any PRCP schedule relating to the authority; and

(ii) the extent to which the progressive certification report is accurate.

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318ZE Amending progressive certification application

(1) The applicant may, at any time before the administering authority decides the progressive certification application, amend the application.

(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.

(3) The notice must be accompanied by the fee prescribed under a regulation.

(4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 318ZG.

Division 3 Progressive certification report and further information

318ZF Requirements for progressive certification report

The progressive certification report must—

(a) contain the following information—

(i) if a PRCP schedule applies for the relevant activities carried out in the proposed certified area—

(A) information showing how the rehabilitation milestones and management milestones under the PRCP schedule have been achieved; and

(B) information about the extent to which the relevant conditions stated in the PRCP schedule have been complied with;

(ii) otherwise—information required under section 264, as if a reference in the section to land were a reference to the proposed certified area; and

(b) include—

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(i) a map of an appropriate scale that shows the proposed certified area; and

(ii) relevant information to locate the proposed certified area, including, for example, GPS information or a survey; and

(c) if progressive certification has previously been given for a relevant tenure for the environmental authority—

(i) state when the certification was given; and

(ii) identify the certified area the subject of the certification.

318ZG Administering authority may request further information

(1) The administering authority may ask the applicant, by written request, to give further information needed to assess the progressive certification application.

(2) The request must be made within 10 business days after the application is received.

Division 4 Deciding progressive certification application

318ZH Deciding progressive certification application

The administering authority must decide to give or refuse the progressive certification—

(a) if the administering authority requests further information under section 318ZG(1)—within 40 business days after the further information is received by the authority; or

(b) otherwise—within 40 business days after the application is received.

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318ZI Criteria for decision

(1) In deciding the progressive certification application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), consider the following—

(i) the standard criteria;

(ii) the progressive certification report accompanying the application;

(iii) the compliance statement for the report;

(iv) if a PRCP schedule applies for the proposed certified 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) The administering authority may give the progressive certification only if the administering authority is satisfied of each of the following circumstances—

(a) the conditions of the environmental authority have been complied with for the proposed certified area;

(b) if the environmental authority is subject to conditions about rehabilitation and a PRCP schedule does not apply for the proposed certified area—the land on which each relevant resource project has been carried out in relation to the area has been satisfactorily rehabilitated;

(c) if a PRCP schedule applies for the proposed certified area—the schedule has been complied with in relation to the area;

(d) each other circumstance (if any) prescribed by regulation as a circumstance of which the administering authority must be satisfied for this section.

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318ZJ Steps after making decision

If the administering authority decides the progressive certification application, it must, within 10 business days after the decision is made—

(a) if the decision was to give the progressive certification—

(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 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

(b) if the decision was to refuse the progressive certification—give the applicant an information notice about the decision.

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 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

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(c) record the amendment in the relevant register.

Chapter 7 Environmental management

Part 1 Environmental duties

Division 1 Duty to prevent and minimise environmental harm

319 General environmental duty

(1) A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonably practicable measures to prevent or minimise the harm (the ***general environmental duty***).

Note—

See section 24(3) (Effect of Act on other rights, civil remedies etc.).

(2) A person commits an offence if—

(a) the person contravenes the general environmental duty in relation to an activity; and

(b) the contravention causes, or is likely to cause, serious or material environmental harm.

Maximum penalty—

(a) if the offence is committed wilfully—4,500 penalty units or 2 years imprisonment; or

(b) otherwise—1,655 penalty units.

(3) However, a person does not commit an offence against subsection (2) for a contravention of the general environmental duty in relation to an activity if—

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(a) the contravention arises only because the person does an act that causes, or is likely to cause, environmental harm; and

(b) either—

(i) a thing mentioned in section 493A(2) authorises the act to be done and provides for reasonably practicable measures to be taken in relation to the doing of the act; or

(ii) in doing the act, the person complies with a code of practice that applies in relation to the doing of the act.

(4) In deciding the measures required to be taken under subsection (1), regard must be had to, for example—

(a) the nature of the harm or potential harm; and

(b) the sensitivity of the receiving environment; and

(c) the current state of technical knowledge for the activity; and

(d) the likelihood of successful application of the different measures that might be taken; and

(e) the financial implications of the different measures as they would relate to the type of activity.

(5) Also, in deciding whether the general environmental duty is contravened regard may be had to whether a person fails, for example, to do any of the following in carrying out an activity—

(a) install, use and maintain plant, equipment, processes or systems in a way that minimises risks of environmental harm that may arise in connection with the activity;

(b) use and maintain systems for the identification, assessment and control of risks of environmental harm that may arise in connection with the activity, and for the evaluation of the effectiveness of controls;

(c) use and maintain systems to ensure that all substances are handled, stored, used or transported in a way that

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minimises risks of environmental harm that may arise in connection with the activity;

(d) use and maintain systems to ensure that information, instruction, supervision and training is provided to any person engaging in the activity in a way that minimises risks of environmental harm that may arise in connection with the activity.

(6) A reference in subsection (3) to an act includes an omission and a reference to doing an act includes making an omission.

319A Special provision for activities involving relevant industrial chemicals

(1) This section applies to a person carrying out an activity that involves a relevant industrial chemical.

(2) The person is taken not to comply with the general environmental duty unless the person complies with any risk management measures for the chemical under a scheduling decision under the *Industrial Chemicals Environmental Management (Register) Act 2021* (Cwlth).

(3) Subsection (2)—

(a) does not limit the application of section 319 to the person; and

(b) applies even if the person has otherwise taken all reasonably practicable measures to prevent or minimise environmental harm caused, or likely to be caused, by the activity.

319B Prosecutions for contravention of general environmental duty

(1) This section applies if—

(a) a person engages in conduct that constitutes a relevant act mentioned in section 493A(1) (the ***relevant conduct***); and

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(b) the person is charged with an offence in relation to the relevant conduct (the ***relevant offence***); and

(c) the person is intending to rely on the defence under section 493A(3) in relation to the relevant offence.

(2) In a proceeding for the relevant offence, the person may not be charged with an alternative offence against section 319(2) in relation to the same, or substantially the same, conduct as the relevant conduct.

(3) Any information obtained from the person in relation to the defence under section 493A(3) in a proceeding for the relevant offence can not be used against the person in a proceeding for an offence against section 319(2) that is constituted by the same, or substantially the same, conduct as the relevant conduct.

Division 1A Duty to restore the environment

319C Duty to restore the environment

(1) This section applies to a person causing or permitting, or who caused or permitted, an incident involving contamination of the environment to happen that results in unlawful environmental harm.

(2) The person must, as soon as reasonably practicable after the incident happens, take measures, as far as reasonably practicable, to rehabilitate or restore the environment to its condition before the harm (the ***duty to restore the environment***).

(3) A person commits an offence if—

(a) the person contravenes the duty to restore the environment; and

(b) the contravention relates to harm that is serious or material environmental harm.

Maximum penalty—

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(a) if the offence is committed wilfully—4,500 penalty units or 2 years imprisonment; or

(b) otherwise—1,655 penalty units.

(4) In deciding the measures required to be taken under subsection (2), regard must be had to, for example—

(a) the nature and extent of the environmental harm caused by the contamination; and

(b) the sensitivity of the receiving environment to remedial measures that might be taken in relation to the environmental harm; and

(c) the current state of technical knowledge for remedial measures that might be taken in relation to the environmental harm; and

(d) the likelihood of successful application of the different measures that might be taken in relation to the environmental harm; and

(e) the financial implications of the different measures that might be taken in relation to the environmental harm.

Division 2 Duty to notify of environmental harm

Subdivision 1 Preliminary

320 Definitions for div 2

In this division—

affected land means land on which an event has caused or threatens serious or material environmental harm.

employer see section 320B(1).

occupier, of affected land, means a person who lives or works on the affected land.

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primary activity see section 320A(1).

public notice means a notice given in the way prescribed under a regulation.

Example—

a radio or television broadcast

registered owner, of affected land, means—

(a) the registered owner of the land under the *Land Title Act 1994*; or

(b) the lessee of the land under the *Land Act 1994*.

320A Application of div 2

(1) This division applies if a person—

(a) while carrying out an activity (the ***primary activity***), becomes aware, or ought reasonably to have become aware, that an event has happened that causes or threatens serious or material environmental harm because of the person's or someone else's act or omission in carrying out the primary activity or another activity being carried out in association with the primary activity; or

(b) while carrying out a resource activity, other than a mining activity (also the ***primary activity***), becomes aware, or ought reasonably to have become aware, of the happening of 1 or both of the following events—

(i) the activity has negatively affected, or is reasonably likely to negatively affect, the water quality of an aquifer;

(ii) the activity has caused the connection of 2 or more aquifers.

(2) Also, this division applies to a person who—

(a) is—

(i) the owner or occupier of land; or

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(ii) an auditor performing an auditor's function mentioned in section 568(b); or

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

(b) becomes aware, or ought reasonably to have become aware, of—

(i) the presence of, or happening of an event involving, a hazardous contaminant on the land that is causing, or is reasonably likely to cause, serious or material environmental harm; or

(ii) if the land is contaminated land—a change in the condition of the land that is causing, or is reasonably likely to cause, serious or material environmental harm; or

(iii) a notifiable activity having been carried out, or being carried out, on the land.

Note—

See subdivision 3A about the duty of a person mentioned in subsection (2).

(3) This division applies to a local government that becomes aware, or ought reasonably to have become aware, of—

(a) the presence of, or happening of an event involving, a hazardous contaminant in the local government area that is causing, or is reasonably likely to cause, serious or material environmental harm; or

(b) a change in the condition of contaminated land in the local government area that is causing, or is reasonably likely to cause, serious or material environmental harm; or

(c) a notifiable activity having been carried out, or being carried out, on land in the local government area.

Note—

See subdivision 3B for the duty of a local government mentioned in subsection (3).

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(4) However, this division does not apply if the event is authorised to be caused under—

(a) an environmental protection policy; or

(b) a transitional environmental program; or

(c) an environmental enforcement order; or

(d) an environmental authority; or

(e) a PRCP schedule; or

(f) a development condition of a development approval; or

(g) a prescribed condition for carrying out a small scale mining activity; or

(h) an emergency direction; or

(i) an agricultural ERA standard; or

(j) a temporary emissions licence.

Subdivision 2 Duty of person carrying out an activity

320B Duty of particular employees to notify employer

(1) This section applies if the person is carrying out the primary activity during the person's employment or engagement by, or as the agent of, someone else (the ***employer***).

(2) However, this section does not apply if the person is carrying out the primary activity as a rehabilitation auditor performing functions for an audit of a PRCP schedule or an auditor performing auditor's functions mentioned in section 568.

(3) The person must, no later than 24 hours after becoming aware of the event, or the time when the person ought reasonably to have become aware of the event, and unless the person has a reasonable excuse—

(a) notify the employer of the event, its nature and the circumstances in which it happened; or

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(b) if the employer can not be contacted—give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—100 penalty units.

320C Duty of other persons to notify particular owners and occupiers

(1) This section applies if the person is not carrying out the primary activity during the person's employment or engagement by, or as the agent of, someone else.

(2) The person must, no later than 24 hours after becoming aware of the event, or the time when the person ought reasonably to have become aware of the event, and unless the person has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

(a) for an event mentioned in section 320A(1)(a)—500 penalty units; and

(b) for an event mentioned in section 320A(1)(b)—100 penalty units.

(3) The person must, as soon as reasonably practicable after becoming aware of the event, or the time when the person ought reasonably to have become aware of the event, and unless the person has a reasonable excuse, give—

(a) written notice of the event, its nature and the circumstances in which it happened to—

(i) any occupier of the affected land; or

(ii) any registered owner of the affected land; or

(b) public notice of the event, its nature and the circumstances in which it happened to persons on the affected land.

Maximum penalty—

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(a) for an event mentioned in section 320A(1)(a)—500 penalty units; and

(b) for an event mentioned in section 320A(1)(b)—100 penalty units.

Subdivision 3 Duty of employer

320D Duty of employer to notify particular owners and occupiers

(1) This section applies if the employer has been notified under section 320B(3) of the event.

(2) The employer must, no later than 24 hours after becoming aware of the event, or the time when the person ought reasonably to have become aware of the event, and unless the employer has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

(a) for an event mentioned in section 320A(1)(a)—500 penalty units; and

(b) for an event mentioned in section 320A(1)(b)—100 penalty units.

(3) The employer must, as soon as reasonably practicable after becoming aware of the event, or the time when the person ought reasonably to have become aware of the event, and unless the person has a reasonable excuse, give—

(a) written notice of the event, its nature and the circumstances in which it happened to—

(i) any occupier of the affected land; or

(ii) any registered owner of the affected land; or

(b) public notice of the event, its nature and the circumstances in which it happened to persons on the affected land.

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Maximum penalty—

(a) for an event mentioned in section 320A(1)(a)—500 penalty units; and

(b) for an event mentioned in section 320A(1)(b)—100 penalty units.

Subdivision 3A Duty of owner, occupier or auditor

320DA Duty of owner, occupier or auditor to notify administering authority

(1) A person mentioned in section 320A(2)(a) must, within 24 hours after becoming aware of the matter, or the time when the person ought reasonably to have become aware of the matter, mentioned in section 320A(2)(b)(i) or (ii), give the administering authority written notice of the matters stated in subsection (2), unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) The notice must state—

(a) the nature of the matter; and

(b) the circumstances in which the person became aware of the matter.

(3) A person mentioned in section 320A(2)(a) must, within 20 business days after becoming aware of an activity, or the time when the person ought reasonably to have become aware of an activity, mentioned in section 320A(2)(b)(iii), give the administering authority written notice of the activity, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

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Subdivision 3B Duty of local government

320DB Duty of local government to notify administering authority

(1) A local government mentioned in section 320A(3)(c) must, within 20 business days after becoming aware, or the time when the local government ought reasonably to have become aware, that the activity has been, or is being, carried out on land in its area, give the administering authority written notice of the activity.

(2) A local government mentioned in section 320A(3)(a) or (b) must, within 24 hours after becoming aware, or the time when the local government ought reasonably to have become aware, of the matter mentioned in section 320A(3)(a) or (b), give the administering authority written notice of—

(a) the nature of the matter mentioned in the section; and

(b) the circumstances in which the local government became aware of the matter.

Subdivision 4 Miscellaneous

320E Notice to occupiers of affected land

(1) Without limiting the ways in which a person or employer may give written notice to an occupier of affected land under this division, a person or employer is taken to have given written notice under this division to an occupier of affected land if the notice is—

(a) left with someone who is apparently an adult living or working on the affected land; or

(b) if there is no-one on the affected land or the person has been denied access to the affected land—left on the affected land in a position where it is reasonably likely to come to the occupier's attention; or

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(c) posted to the affected land.

(2) Written notice that is posted to, or left at, affected land may be addressed to 'The Occupier'.

320F Defences and excuses for div 2

(1) In a proceeding for an offence against a provision of this division, it is a defence for a person or employer to prove that, despite failing to comply with the provision, the person or employer made reasonable efforts to identify the affected land and give written notice to each registered owner or occupier of the affected land.

(2) It is not a reasonable excuse for a person or employer to fail to comply with an obligation under this division on the ground that the written notice, or the giving of the written notice, might tend to incriminate the person or employer.

320G Use of notice in legal proceedings

(1) A written notice given by a person or employer under this division is not admissible in evidence against the person or employer in a prosecution for an offence against this Act that is constituted by the act or omission that caused the event under the notice.

(2) This section does not prevent other evidence obtained because of the written notice, or the giving of the written notice, being admitted in any legal proceeding against the person or employer.

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Part 2 Environmental evaluations

Division 1 Preliminary

321 What is an environmental evaluation

(1) An environmental evaluation is an evaluation of an activity or event to decide the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event.

(2) Also, an environmental evaluation is an evaluation of contaminated land to decide—

(a) the source, cause or extent of contamination of the land being caused, or likely to be caused; and

(b) the need for—

(i) a site management plan for the land; or

(ii) the land to be remediated; and

(c) the source, cause or extent of any contamination to the surrounding land, or to the environment, being caused, or likely to be caused, by the contamination of the land; and

(d) any environmental harm being caused, or likely to be caused, by the contamination of the land.

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Division 2 Environmental audits

Subdivision 1 Audit requirements

322 Administering authority may require environmental audit about environmental authority or PRCP schedule

(1) The administering authority may, by written notice (an ***audit notice***) require the holder of an environmental authority or PRCP schedule to—

(a) commission an audit (an ***environmental audit***) about a stated matter concerning a relevant activity; and

Examples of matters for paragraph (a)—

1 whether the conditions of the environmental authority have been complied with

2 the environmental harm a relevant activity is causing compared with the environmental harm authorised under the environmental authority

3 whether a plan of operations for an environmental authority complies with the conditions of the environmental authority

4 the accuracy of a final rehabilitation report given to the administering authority by the holder

(b) give the administering authority an environmental report about the audit.

(2) However, an audit notice may be given under subsection (1) only if the administering authority is satisfied the audit is necessary or desirable.

322A Chief executive may require environmental audit about recognised accreditation program for agricultural ERA

(1) The chief executive may, by written notice (also an ***audit notice***), require the owner of a recognised accreditation program for an agricultural ERA to—

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(a) commission an audit (also an ***environmental audit***) about a stated matter concerning the accreditation program; and

Example of a matter—

whether the conditions of recognition of the accredited program have been complied with

(b) give the administering authority an environmental report about the audit.

(2) However, an audit notice may be given under subsection (1) only if the chief executive is satisfied the audit is necessary or desirable.

323 Administering authority may require environmental audit about other matters

(1) Subsection (2) applies if the administering authority is satisfied that—

(a) a person is, or has been, contravening—

(i) a regulation; or

(ii) an environmental protection policy; or

(iii) an agricultural ERA standard; or

(iv) a transitional environmental program; or

(v) an enforceable undertaking; or

(b) a person is, or has been, contravening any of the following provisions—

(i) section 440Q;

(ii) section 440ZG;

(iii) a provision of chapter 8, part 3E or 3F.

(2) The administering authority may, by written notice (also an ***audit notice***), require the person to—

(a) commission an audit (also an ***environmental audit***) about the matter; and

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(b) give the administering authority an environmental report about the audit.

324 Content of audit notice

(1) An audit notice must state the following—

(a) the name of the recipient;

(b) if the notice is given under section 322—the environmental authority or PRCP schedule;

(c) if the notice is given under section 322A—the recognised accreditation program and the agricultural ERA to which the program relates;

(d) the matter for which the environmental audit is required;

(e) that the recipient must, within a stated reasonable period—

(i) commission the environmental audit; and

(ii) give the administering authority an environmental report about the audit.

(2) Also, an audit notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

325 Failure to comply with audit notice

A person to whom an audit notice has been given must comply with the notice unless the person has a reasonable excuse.

Note—

See also section 574A (Who may perform auditor's functions).

Maximum penalty—300 penalty units.

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Subdivision 2 Audits by administering authority

326 Administering authority may conduct environmental audit for particular activities

(1) The administering authority may decide to—

(a) conduct or commission an environmental audit about a stated matter concerning an environmental authority or PRCP schedule for a resource activity or a recognised accreditation program for an agricultural ERA; or

(b) prepare an environmental report about the audit.

(2) However, the authority may make a decision under subsection (1) only if it is satisfied the audit or report is necessary or desirable.

(3) If the authority makes a decision under subsection (1), it must give the environmental authority holder or owner of the recognised accreditation program an information notice about the decision.

(4) The authority must, within 10 business days after preparing an environmental report about the audit, give the environmental authority holder or owner of the recognised accreditation program a copy of it.

326A Administering authority's costs of environmental audit or report

(1) This section applies if the administering authority has, under section 326, incurred costs in conducting or commissioning an environmental audit or preparing an environmental report about the audit.

(2) The holder of the relevant environmental authority or PRCP schedule, or owner of the recognised accreditation program, given an information notice for the audit decision under section 326(3) must pay the amount of the costs if—

(a) the costs were appropriately and reasonably incurred; and

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(b) the administering authority has asked the holder or owner to pay the amount.

(3) The administering authority may recover the amount as a debt.

(4) In this section—

audit decision, in relation to costs incurred in conducting or commissioning an environmental audit or preparing an environmental report about the audit, means the decision under section 326(1) to conduct or commission the audit or prepare the report.

Division 3 Environmental investigations

326B When environmental investigation required—environmental harm

(1) This section applies if the administering authority is satisfied on reasonable grounds that—

(a) an event has happened causing environmental harm while an activity was being carried out; or

(b) an activity or proposed activity is causing, or is likely to cause environmental harm.

(2) The authority may, by written notice (an ***investigation notice***), require the person who has carried out, is carrying out or is proposing to carry out the activity to—

(a) conduct or commission an investigation (an ***environmental investigation***) about the event or activity; and

(b) submit an environmental report about the investigation to the authority.

(3) This section does not apply if the administering authority requires an environmental audit for the event or activity.

(4) To remove any doubt, it is declared that the administering authority may give an investigation notice under this section

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to a person in relation to an activity even if the person is the holder of an environmental authority that authorises, or purportedly authorises, the activity.

(5) In this section—

activity includes rehabilitation or remediation work.

326BA When environmental investigation required—contamination of land

(1) This section applies if—

(a) particulars of land are recorded in the environmental management register or contaminated land register; and

(b) the administering authority is satisfied, or suspects on reasonable grounds, the hazardous contaminant contaminating the land has the potential to cause serious environmental harm or material environmental harm; and

(c) the administering authority is satisfied a person, animal or another part of the environment may be exposed to the hazardous contaminant, whether on the land or not.

(2) The administering authority may, by written notice (also an ***investigation notice***), require a prescribed responsible person for the land to—

(a) conduct or commission an investigation (also an ***environmental investigation***) about the contamination or potential contamination of the land; and

(b) give the administering authority a site investigation report for the land in accordance with sections 389 and 390.

(3) The administering authority must not require an environmental investigation to be conducted or commissioned if—

(a) the land is subject to a site management plan for the contamination; and

(b) the conditions of the plan are being complied with.

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(4) To remove any doubt, it is declared that the administering authority may give an investigation notice under this section to a prescribed responsible person for land even if the person is the holder of an environmental authority that authorises, or purportedly authorises, activities carried out on the land.

326C Content of investigation notice

(1) An investigation notice given under section 326B or 326BA must state the following—

(a) the name of the person to whom the notice is given;

(b) the matter for which the environmental investigation is required;

(c) for a notice given under section 326B—that the person must, within a stated reasonable period—

(i) conduct or commission the environmental investigation; and

(ii) give the administering authority an environmental report about the investigation;

(d) for a notice given under section 326BA—that the person must, within a stated reasonable period—

(i) conduct or commission the environmental investigation; and

(ii) give the administering authority a site investigation report for the land in accordance with sections 389 and 390.

(2) An investigation notice given under section 326B or 326BA must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

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326D Failure to comply with investigation notice

A person to whom an investigation notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

326DA Procedure to be followed if recipient is not owner

(1) This section applies if the person (the ***recipient***) to whom an investigation notice is given is not the land's owner.

(2) The recipient, or a person conducting the environmental investigation for the recipient (the ***investigator***), may enter the land to conduct the investigation only—

(a) with the consent of the owner and occupier of the land; or

(b) if the recipient or investigator has given at least 5business days written notice to the owner and occupier.

(3) The notice must inform the owner and occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the land is to be entered.

(4) Nothing in this section authorises the recipient or investigator to enter a building used for residential purposes.

(5) When conducting the environmental investigation, the recipient or investigator must take all reasonable steps to ensure the recipient or investigator causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(6) If a person incurs loss or damage because of the environmental investigation, the person is entitled to be paid by the recipient or investigator reasonable compensation because of the loss or damage—

(a) as agreed between the recipient or investigator and the person; or

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(b) if an agreement can not be reached—as decided by a court of competent jurisdiction.

(7) The court may make the order about costs that the court considers just.

Division 4 Requirement for declarations

326E Declarations to accompany report

(1) An environmental report submitted to the administering authority must be accompanied by a declaration stating that the recipient—

(a) has not knowingly given false or misleading information to the person who carried out the environmental evaluation; and

(b) has given all relevant information to the person who carried out the environmental evaluation.

(2) The declaration must be made—

(a) if the recipient is an individual—by the recipient; or

(b) if the recipient is a corporation—by an executive officer of the corporation.

(3) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2), 326B(2) or 326BA(2) requiring the person to give the administering authority the report.

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Division 5 Steps after receiving environmental reports

326F Administering authority may request further information

(1) This section applies for an environmental report about an environmental investigation.

(2) The administering authority may within 10 business days after receiving the report, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.

(3) The administering authority may, by written notice given to the recipient, extend the period within which the administering authority may make a request under subsection (2) by no more than 10 business days.

(4) The notice mentioned in subsection (3)—

(a) may only be given once by the administering authority; and

(b) must be given before the period mentioned in subsection (2) ends.

(5) The period within which the administering authority may make a request under subsection (2) may be further extended if the recipient, at any time, agrees in writing to the further extension.

(6) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2) or 326BA(2).

326G Decision about environmental report

(1) Subsection (2) applies if an environmental report is about an environmental audit.

(2) The administering authority must accept the report.

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Note—

An environmental report about an environmental audit must be prepared by an auditor. See section 574A.

(3) Subsection (4) applies if an environmental report is about an environmental investigation.

(4) The administering authority must decide to—

(a) accept the report; or

(b) refuse to accept the report.

(5) The administering authority may only make a decision under subsection (4)(b) if the authority is satisfied the report does not adequately address the relevant matters for the environmental investigation to which the report relates.

(6) A decision under subsection (4) must be made—

(a) if a request for further information was made under section 326F—within 20 business days after the further information is received; or

(b) otherwise—within 20 business days after the environmental report is received.

(7) The administering authority may extend the period mentioned in subsection (6) for making the decision if—

(a) the authority is satisfied there are special circumstances for extending the time; and

(b) before the extension starts, it gives an information notice about the decision to extend to the recipient.

(8) The administering authority must give the recipient written notice of the decision within 5 business days after making the decision.

(9) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2) or 326BA(2).

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326H Action following acceptance of report

(1) If the administering authority accepts an environmental report under section 326G, the administering authority may do 1 or more of the following—

(a) for a report other than a report for an activity to which a PRCP schedule applies—require the recipient to apply for the issue of a transitional environmental program for the activity;

(b) if the recipient is the holder of an environmental authority or PRCP schedule—amend the conditions of the authority or PRCP schedule;

(c) serve an environmental enforcement order on the recipient;

(d) take any other action it considers appropriate.

(2) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2), 326B(2) or 326BA(2) requiring the person to give the administering authority the report.

326I Action following refusal of report

(1) Subsection (2) applies if the administering authority decides to refuse to accept an environmental report under section 326G(4)(b).

(2) The administering authority may require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.

(3) A requirement under subsection (2) must be made by written notice given to the recipient.

(4) The notice must state—

(a) the relevant matters for the evaluation required; and

(b) a reasonable period after the notice is given by which the report must be given to the administering authority.

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(5) A notice under subsection (2) must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

(6) A person given a notice about a requirement under subsection (2) must comply with the requirement within the period stated in the notice.

Maximum penalty for subsection (6)—300 penalty units.

(7) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report about the investigation to the administering authority under section 326B(2) or 326BA(2).

Division 6 Miscellaneous

327 Costs of environmental evaluation and report

The recipient must meet the following costs—

(a) the costs of conducting or commissioning an environmental evaluation and report;

(b) the costs of giving additional relevant information about the report required by the administering authority.

329 Failure to make decision on environmental report taken to be refusal

If the administering authority fails to make a decision under section 326G(4) within the period stated in section 326G(6)—

(a) the administering authority is taken to have decided to refuse to accept the report; and

(b) the decision is taken to have been made on the last day of the period stated in section 326G(6).

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Part 3 Transitional environmental programs

Division 1 Preliminary

330 What is a transitional environmental program

(1) A ***transitional environmental program*** is a specific program that, when complied with, achieves compliance with this Act for the activity to which it relates by doing 1 or more of the following—

(a) reducing environmental harm caused by the activity;

(b) detailing the transition of the activity to an environmental standard;

(c) detailing the transition of the activity to comply with—

(i) a condition of an environmental authority for the activity; or

(ii) a development condition; or

(iii) a prescribed condition for carrying out a small scale mining activity; or

(iv) an agricultural ERA standard that applies to an agricultural ERA.

(2) However, a transitional environmental program must not be used to achieve compliance with—

(a) an enforceable undertaking; or

(b) a PRCP schedule.

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Division 2 Applications for issue of transitional environmental programs

331 Requirements for applications generally

(1) An application for the issue of a transitional environmental program must—

(a) be in the approved form; and

(b) comply with subsection (2); and

(c) be accompanied by the fee prescribed by regulation.

(2) For subsection (1)(b), the application must, for the activity to which the application relates—

(a) state the objectives that will be achieved and maintained under the program for the activity; and

(b) state particular actions required to achieve the objectives, and the day by which each action will be carried out, taking into account—

(i) the best practice environmental management for the activity; and

(ii) the risks of environmental harm being caused by the activity; and

(c) state how any environmental harm that may be caused by the activity will be prevented or minimised, including any interim measures that are to be implemented; and

(d) if the activity is to transition to an environmental standard, state—

(i) details of the standard; and

(ii) how the activity is to transition to the standard before the program ends; and

(e) if the activity is to transition to comply with a condition of an environmental authority, a development condition

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or a prescribed condition for carrying out a small scale mining activity, state—

(i) details of the condition and how the activity does not comply with it; and

(ii) how compliance with the condition will be achieved before the program ends; and

(f) state the period over which the program is to be carried out; and

(g) state appropriate performance indicators at intervals of not more than 6 months; and

(h) provide for monitoring and reporting on compliance with the program.

332 Administering authority may require particular entities to apply for issue of program

(1) The administering authority may require a person or public authority to apply to the administering authority for the issue of a transitional environmental program as a condition of an environmental authority.

(2) The administering authority may also require a person or public authority to apply to the administering authority for the issue of a transitional environmental program if it is satisfied—

(a) an activity carried out, or proposed to be carried out, by the person or authority is causing, or may cause, unlawful environmental harm; or

(b) it is not practicable for the person or public authority to comply with an environmental protection policy or regulation on its commencement; or

(c) that a condition of an environmental authority held by the person or public authority is, or has been, contravened; or

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(ca) that a prescribed condition for carrying out a small scale mining activity is, or has been, contravened by the person or public authority carrying out the activity; or

(d) a development condition of a development approval is, or has been, contravened and the person or public authority is—

(i) an owner of the land for which the approval is granted; or

(ii) another person in whom the benefit of the approval vests; or

(e) an environmental enforcement order issued to the person or public authority under section 362(1) has been amended or withdrawn.

(3) A requirement under subsection (1) or (2) must be made by written notice given to the person or public authority.

(4) The notice must state—

(a) the grounds on which the requirement is made; and

(b) the matters to be addressed by the program; and

(c) the period over which the program is to be carried out; and

(d) the day (at least a reasonable period after the notice is given) by which the person or public authority must apply to the administering authority for the issue of the program; and

(e) the review or appeal details.

(5) A person of whom a requirement under subsection (1) or (2) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

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333 Voluntary application for issue of transitional environmental program

A person or public authority may, at any time, apply to the administering authority for the issue of a transitional environmental program for an activity the person or public authority is carrying out or proposes to carry out.

334 Administering authority may request further information

(1) The administering authority may, by written notice, ask the person or public authority that applied for the issue of the transitional environmental program to give further information needed to decide whether to approve the application.

(2) The request must—

(a) be made within 10 business days after the application is received; and

(b) state that the applicant must give the information requested within 10 business days after the day the request is made (the ***information response period***); and

(c) state that the application will lapse under section 334A if the applicant does not give the information within the information response period.

(3) The applicant must, within the information response period, give the administering authority the requested information.

(4) The applicant may, by written notice given to the administering authority, ask the administering authority to extend the information response period by no more than 10 business days.

334A When application lapses

(1) This section applies if the applicant is given a request under section 334.

(2) The application lapses if the applicant does not, within the information response period or the further period agreed

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between the administering authority and the applicant, give the administering authority the requested information.

335 Public notice of making of particular applications

(1) This section applies if—

(a) a person or public authority makes an application for the issue of a transitional environmental program; and

(b) the application states the period over which the program is to be carried out is longer than 3 years.

(2) The person or public authority must give public notice of the application by—

(a) advertisement published in a newspaper circulating generally in the area in which the activity to which the application relates is, or is proposed to be, carried out; and

(b) if the application relates to premises—

(i) placing a notice on the premises; and

(ii) serving a notice on the occupiers of all premises adjoining the premises.

(3) The public notice under subsection (2) must be given—

(a) if further information is requested under section 334A(1)—within 2 business days after a response to the request is given; or

(b) otherwise—within 12 business days after the application is received by the administering authority.

(4) The notice must—

(a) be in the approved form; and

(b) invite submissions on the application from government departments, public authorities, local governments, landholders, industry, interested groups and persons and members of the public; and

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(c) state the day (at least 10 business days after compliance with subsection (2)) nominated by the administering authority as the day by which submissions may be made to the authority.

336 Authority may call conference

(1) The administering authority may invite the person or public authority that made the application and any person who has made a submission under section 335 about the application to a conference to help the authority in deciding whether or not to approve the application.

(2) The administering authority must give written notice to all persons invited to attend the conference of when and where the conference is to be held.

(3) However, if the administering authority considers it is impracticable to give notice to all persons invited to attend the conference, the authority may give notice of the conference by publishing a notice in the newspapers the authority decides.

(4) The administering authority must endeavour to appoint an independent person to mediate the conference.

336A Administering authority may seek advice, comment or information about application

(1) The administering authority may ask any person for advice, comment or information about an application for the issue of a transitional environmental program at any time.

(2) There is no particular way advice, comment or information may be asked for and received and the request may be by public notice.

337 When decision must be made—generally

(1) The administering authority must decide whether to approve an application for the issue of a transitional environmental program within 20 business days after—

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(a) if public notice is required under section 335—the day stated in the notice as the day by which submissions may be made to the administering authority; or

(b) if public notice is not required and further information is not requested under section 334A(1)—the day the application is received by the administering authority; or

(c) if public notice is not required and further information is requested under section 334A(1)—the day a response to the request for further information is received.

(2) The administering authority may extend the period mentioned in subsection (1) for making the decision if, before the extension starts, it gives an information notice about the decision to extend to—

(a) the person or public authority that made the application; and

(b) any submitters.

(3) If public notice is required to be given of the application, the administering authority must be satisfied public notice has been properly given before making a decision.

338 Criteria for deciding application

(1) In deciding whether to approve or refuse to approve an application for the issue of a transitional environmental program or the conditions to be imposed on the program, the administering authority—

(a) must consider whether the program sought by the application—

(i) may allow serious environmental harm to happen or cause serious environmental harm; and

(ii) will achieve full compliance with the Act for the matters dealt with by the program under section 349; and

(b) must comply with any relevant regulatory requirement; and

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(c) subject to paragraph (b), must also consider the following—

(i) the standard criteria;

(ii) additional information given in relation to the application;

(iii) the views expressed at a conference held in relation to the application.

(2) Subsection (1)(c) does not limit the criteria or matters the administering authority may consider in making a decision under section 339.

(3) Without limiting the circumstances in which the administering authority may refuse to approve the application, the administering authority may refuse to approve the application if it considers the program sought by the application may allow serious environmental harm to happen or cause serious environmental harm.

(4) However, the administering authority must refuse to approve the application if it considers the program sought by the application will not achieve full compliance with the Act for the matters dealt with by the program under section 349.

339 Deciding application

(1) The administering authority must decide that an application for the issue of a transitional environmental program—

(a) be approved with or without the imposition of conditions on the program; or

(b) be refused.

(2) If the administering authority approves the application, the administering authority—

(a) must impose any conditions on the transitional environmental program the authority is required to impose under a regulatory requirement; and

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(b) may impose a condition on the program requiring the holder to give an amount of financial assurance as security for compliance with the program and any conditions of the program; and

(c) may impose any other conditions on the program the administering authority considers appropriate.

340 Notice of decision

The administering authority must, within 8 business days after making a decision under section 339—

(a) if the administering authority approves the application—issue the transitional environmental program to the person or public authority that made the application; and

(b) if the administering authority refuses to approve the application, or approves the application and issues the program with conditions—give the person or public authority that made the application an information notice.

340A Period of transitional environmental program

A transitional environmental program is in effect for the period—

(a) starting on the day the program is issued under section 340; and

(b) ending on the day stated in the program.

341 Content of transitional environmental program

(1) A transitional environmental program issued under this division must—

(a) contain all conditions imposed on the program by the administering authority; and

(b) state the day the program ends.

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(2) Also, if the activity to which the transitional environmental program relates is to transition to comply with a condition of an environmental authority (a ***relevant EA condition***), the program must—

(a) identify the relevant EA condition; and

(b) state the extent to which the holder of the program is not required to comply with the relevant EA condition.

342 Substantial compliance with Act may be accepted as compliance

(1) This section applies if, under this Act, a person or public authority is required to give public notice of an application for the issue of a transitional environmental program and the administering authority is not satisfied public notice has been properly given.

(2) The administering authority may consider and decide whether to approve the application if it is satisfied there has been substantial compliance with this Act.

343 Failure to approve application taken to be refusal

If the administering authority fails to decide whether to approve or refuse to approve an application for the issue of a transitional environmental program within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse to approve the application at the end of the time.

343A Notation of issue of transitional environmental program on particular environmental authorities

(1) This section applies if the administering authority issues a transitional environmental program relating to an environmental authority.

(2) The administering authority must—

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(a) include a note in the environmental authority which states—

(i) details of the approved transitional environmental program; and

(ii) that it is an offence to contravene a transitional environmental program; and

(b) give the holder of the environmental authority a copy of the environmental authority including the note.

(3) The note is not an amendment to the environmental authority.

Division 3 Amendment of transitional environmental programs

Subdivision 1 Application for amendment by holder

344 Application of particular provisions

(1) Division 2 (other than section 335(1)) applies, with all necessary changes, to an application by the holder of a transitional environmental program for an environmentally relevant activity to amend the program.

(2) Without limiting subsection (1), if the holder makes an application for an amendment of the program that extends the period over which the program is to be carried out to longer than 5 years, section 335(2) and (3) applies to the application as if the application were for the issue of a transitional environmental program.

(3) Also, the administering authority may approve the amendment only if it is satisfied it will not result in increased environmental harm being caused by the carrying out of the activity under the amended approval than the environmental harm that would be caused by carrying out the activity if the approval were not granted.

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(4) Without limiting the matters to be considered in deciding the application, the administering authority must have regard to—

(a) the period under the original program; and

(b) the period that remains under the original program; and

(c) any change to the period under the original program; and

(d) the nature of the risk of environmental harm being caused by the activity.

Subdivision 2 Amendments by administering authority

344AA Corrections

The administering authority may amend a transitional environmental program to correct a clerical or formal error if—

(a) the amendment does not adversely affect the interests of the holder of the program or anyone else; and

(b) the holder of the program has been given written notice of the amendment.

344AB Other amendments

(1) The administering authority may amend a transitional environmental program, or a condition imposed on a transitional environmental program, at any time if—

(a) it considers the amendment is necessary or desirable for the purpose of the program achieving compliance with this Act for the activity to which the program relates and the procedure under subdivision 3 is followed; or

(b) the holder of the program has agreed in writing to the amendment.

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(2) In deciding whether to amend a transitional environmental program or a condition imposed on a program, the administering authority—

(a) must consider whether the program as affected by the amendment—

(i) will result in increased environmental harm being caused by the carrying out of the activity under the program; and

(ii) will achieve full compliance with the Act for the matters dealt with by the program under section 349; and

(b) must comply with any relevant regulatory requirement; and

(c) subject to paragraph (b), must also consider the standard criteria.

(3) Also, the administering authority must consider—

(a) the period under the original program; and

(b) the period that remains under the original program; and

(c) any change to the period under the original program; and

(d) the nature of the risk of environmental harm being caused by the activity.

344AC Steps to be taken after amendments

(1) This section applies if the administering authority amends a transitional environmental program under this subdivision.

(2) The administering authority must, within the relevant period—

(a) amend the transitional environmental program to give effect to the amendment; and

(b) issue the amended transitional environmental program to the holder; and

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(c) include a copy of the amended transitional environmental program in the relevant register.

(3) In this section—

relevant period means—

(a) if the administering authority gives a notice under section 344AA—10 business days after the notice is given; or

(b) if the administering authority amends the transitional environmental program with the holder's agreement—10 business days after the agreement is given; or

(c) if the administering authority gives notice of an amendment decision under section 344AG—10 business days after the notice is given.

Subdivision 3 Procedure for particular amendments

344AD Application of subdivision

This subdivision applies if the administering authority proposes to amend a transitional environmental program, other than—

(a) to make an amendment under section 344AA; or

(b) with the written agreement of the holder of the program.

344AE Notice of proposed amendment

(1) The administering authority must give the holder of the transitional environmental program a written notice (the ***proposed amendment notice***) stating the following—

(a) the amendment (the ***proposed amendment***) the administering authority proposes to make;

(b) the grounds for the proposed amendment;

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(c) the facts and circumstances that are the basis for the grounds;

(d) that the holder may, within a stated period, make written representations to show why the proposed amendment should not be made.

(2) The stated period must end at least 20 business days after the holder is given the proposed amendment notice.

(3) The proposed amendment notice must be accompanied by a copy of the transitional environmental program showing the changes.

344AF Considering representations

The administering authority must consider any written representation made within the period stated in the proposed amendment notice by the holder of the transitional environmental program.

344AG Decision on proposed amendment

(1) If, after complying with section 344AF, the administering authority still believes a ground exists to make the proposed amendment, it may make the amendment.

(2) The decision under subsection (1) is the ***amendment decision***.

(3) In making the amendment decision, the administering authority—

(a) may change the proposed amendment as a result of written representations given to it by the holder; and

(b) is not required to obtain any further written representations from the holder before making the change mentioned in paragraph (a).

(4) If the administering authority at any time decides not to make the proposed amendment, it must promptly give the holder written notice of the decision.

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344AH Notice of amendment decision

The administering authority must, within 10 business days after the amendment decision is made, give the holder of the transitional environmental program an information notice about the decision.

Division 3A Financial assurances

344A Administering authority may claim or realise financial assurance

(1) This section applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to secure compliance with a transitional environmental program, or any conditions of the program, for which financial assurance has been given.

(2) The administering authority may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.

(3) Before making the claim on or realising the financial assurance or part of it, the administering authority must give written notice to the person who gave the financial assurance.

(4) The notice must—

(a) state details of the action proposed to be taken; and

(b) state the amount of the financial assurance to be claimed or realised; and

(c) invite the person to make written representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and

(d) state the period within which the representations may be made.

(5) The stated period must end at least 20 business days after the person is given the notice.

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344B Considering representations

The administering authority must consider any written representations made within the stated period by the person who gave the financial assurance.

344C 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 financial assurance.

(2) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days after making the decision, give the person an information notice about the decision.

344D Discharging financial assurance

(1) This section applies if a transitional environmental program is subject to a condition that financial assurance be given.

(2) At the end of the period over which the program is carried out, the administering authority must discharge the financial assurance.

Division 3B Cancellation of transitional environmental programs

344E Cancelling transitional environmental program

(1) The administering authority may cancel a transitional environmental program for any of the following reasons—

(a) the holder—

(i) agrees in writing to the cancellation; or

(ii) gives the administering authority a notice under section 347(6) of the disposal of the place or business to which the program relates; or

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(iii) gives the administering authority a notice under section 348 of ceasing the activity to which the program relates;

(b) the administering authority is otherwise satisfied the holder has—

(i) disposed of the place or business to which the program relates; or

(ii) ceased the activity to which the program relates.

(2) If the administering authority decides to cancel a transitional environmental program, the administering authority must—

(a) give a notice that states the details of the cancellation to the holder; or

(b) if after making reasonable enquiries the administering authority can not locate the holder—record details of the cancellation in the register of transitional environmental programs.

(3) The cancellation takes effect on the date stated in the notice or record.

(4) The administering authority must ensure the date stated for cancellation is—

(a) at least 20 business days after the administering authority gives the notice or makes the record; and

(b) if the transitional environmental program is being cancelled under subsection (1)(a)(ii)—not before the day when the place or business is disposed of.

(5) In this section—

details of the cancellation means—

(a) that the transitional environmental program is cancelled; and

(b) the reason for the cancellation; and

(c) the date on which the cancellation takes effect.

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344F Cancelling without holder's agreement

(1) This section applies if the administering authority gives a notice or makes a record about the cancellation, under section 344E(1)(b), of a transitional environmental program.

(2) If the administering authority stops being satisfied of a matter in section 344E(1)(b) before the cancellation takes effect, the authority must immediately—

(a) withdraw the notice by another written notice; or

(b) remove the record.

(3) If the notice is withdrawn or the record is removed, the proposed cancellation has no effect.

344G Cancelled program noted under s 343A

(1) This section applies if—

(a) a transitional environmental program is cancelled; and

(b) a note about the program was included in an environmental authority under section 343A; and

(c) the environmental authority is still in force.

(2) The administering authority must give the holder of the environmental authority a copy of the authority that does not include the note.

Division 4 Miscellaneous

345 Annual return

The holder of a transitional environmental program must, within 22 business days after each anniversary of the day of the issue of the program, give to the administering authority an annual return in the approved form.

Maximum penalty—100 penalty units.

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346 Effect of compliance with program

(1) This section applies if a transitional environmental program authorises the holder to do, or not to do, something under the program.

(2) The holder, or a person acting under the program may do, or not do, the thing under the program despite anything in—

(a) a regulation; or

(b) an environmental protection policy; or

(c) an environmental authority held by the holder; or

(d) a development condition of a development approval; or

(e) a prescribed condition for carrying out a small scale mining activity; or

(f) an agricultural ERA standard.

(3) Without limiting subsection (2), the doing, or not doing, of the thing under the program is not a contravention of—

(a) a regulation; or

(b) an environmental protection policy; or

(c) a condition of an environmental authority held by the holder; or

(d) a development condition of a development approval; or

(e) a prescribed condition for carrying out a small scale mining activity; or

(f) an agricultural ERA standard.

347 Notice of disposal by holder of program

(1) This section applies if the holder of a prescribed transitional environmental program proposes to dispose of the place or business to which the program relates to someone else (the ***buyer***).

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(2) Before agreeing to dispose of the place or business, the holder must give written notice to the buyer of the existence of the program.

Maximum penalty—50 penalty units.

(3) If the holder does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the holder before the completion of the agreement or possession under the agreement, whichever is the earlier.

(4) On rescission of the agreement under subsection (3)—

(a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and

(b) the buyer must return to the holder any documents about the disposal (other than the buyer's copy of the agreement).

(5) Subsections (3) and (4) have effect despite any other Act or anything to the contrary in the agreement.

(6) Within 10 business days after agreeing to dispose of the place or business, the holder must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

(7) In this section—

prescribed transitional environmental program means a transitional environmental program that does not relate to an environmental authority.

348 Notice of ceasing to carry out activity by holder of program

Within 10 business days after ceasing to carry out the activity to which a transitional environmental program relates, the holder of the program must give written notice of ceasing to carry out the activity to the administering authority.

Maximum penalty—50 penalty units.

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349 Compliance with Act at completion of program

The holder of a transitional environmental program must achieve full compliance with this Act for the matters dealt with by the program at the end of the period over which the program is carried out.

Part 4 Special provisions about voluntary applications for transitional environmental programs

350 Program notice

(1) A person may give the administering authority a notice (the ***program notice***) about an act or omission (the ***relevant event***) that—

(a) has caused or threatened environmental harm in the carrying out of an activity by the person; and

(b) is lawful apart from this Act.

(2) The notice must—

(a) be in the approved form; and

(b) give full details of the relevant event; and

(c) declare the person's intention to apply to the authority for the issue of a transitional environmental program for the activity; and

(d) state the other information prescribed by regulation.

(3) The person may submit with the notice any report, or the results of any analysis, monitoring program, test or examination, carried out by or for the person for the relevant event.

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351 Program notice privileged

(1) If the relevant event stated in the program notice constitutes an offence against this Act (the ***original offence***), the giving of the program notice, the program notice and any documents submitted with it are not admissible in evidence against the person in a prosecution for the original offence.

(2) Subsection (1) does not prevent other evidence obtained because of the giving of the program notice, the program notice or any documents submitted with it being admitted in any legal proceeding against the person.

352 Authority to act on notice

(1) Within 10 business days after receiving the program notice, the administering authority must give written notice to the person of—

(a) its receiving the notice; and

(b) the day by which the person must make an application under section 333 for the issue of a transitional environmental program dealing with the activity.

(2) The day mentioned in subsection (1)(b) must not be more than 3 months after the administering authority receives the program notice.

(3) This section has effect subject to section 355.

353 Effect of program notice

(1) On receipt of the program notice by the administering authority, the person giving the notice must not be prosecuted for a continuation of the original offence that happens after the authority receives the notice.

(2) Subsection (1) has effect only until whichever of the following happens first—

(a) the person receives from the administering authority a transitional environmental program for the activity;

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(b) the person receives from the administering authority a notice of refusal to approve an application for the issue of a transitional environmental program for the activity;

(c) if the person does not make an application for the issue of a transitional environmental program for the activity to the administering authority by the day stated in the notice given to the person under section 352(1)—the end of the stated day.

(3) The person may be prosecuted for a continuation of the original offence under the program notice that happens after the authority received the notice if subsection (1) ceases to apply to the person under—

(a) subsection (2)(b) if the administering authority states in the notice of refusal to approve the application—

(i) it is satisfied in the circumstances that subsection (1) should not apply to the person; and

(ii) the reasons for the decision; and

(iii) the review or appeal details; or

(b) subsection (2)(c).

(4) Subsection (3) applies even if the continuation of the original offence happened while subsection (1) applied.

354 Effect of failure to comply with program

If the holder of a transitional environmental program for an activity under a program notice does not comply with the program, section 353(1) ceases to apply to the person.

355 Authority may apply to Court for order setting aside immunity from prosecution

(1) If the administering authority receives a program notice from a person, the authority may apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.

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(2) The application must be made—

(a) within 20 business days after the administering authority receives the program notice or the longer period the Court in special circumstances allows; and

(b) by filing written notice of the application with the registrar of the Court and serving a copy of the application on the person; and

(c) by complying with rules of court applicable to the application.

(3) The making of the application does not stay the operation of section 353(1).

(4) The procedure for the application is to be in accordance with the rules of court applicable to it or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

356 Court to decide application

(1) The Court may grant an application under section 355 if the Court is satisfied—

(a) the relevant event was wilfully done or omitted to be done with the intention of relying on the giving of a program notice as an excuse; or

(b) it is not appropriate for section 353(1) to apply to the person who gave the program notice because of the nature and extent of the environmental harm caused or threatened by the continuation of the original offence.

(2) In deciding the application, the Court may have regard to the following—

(a) the circumstances in which the relevant event happened;

(b) the nature and extent of the environmental harm caused or threatened by a continuation of the original offence under the program notice;

(c) the resilience of the receiving environment;

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(d) the environmental record of the person;

(e) whether a transitional environmental program or protection order is in force for the activity.

(3) If the Court grants the application, the Court must make an order that section 353(1) does not apply to the person for a continuation of the original offence under the program notice (whether the continuation happened before or after the receiving of the program notice).

357 Power of Court to make order pending decision on application

(1) This section applies if the administering authority has made an application to the Court under section 355 but the Court has not decided the application.

(2) On the application of the administering authority, the Court may make any order the Court considers appropriate pending a decision on the application.

(3) Without limiting subsection (2), an order may direct the person who gave the program notice to do, or stop doing, anything specified in the order to prevent a continuation of the original offence under the notice.

(4) The Court's power under this section is in addition to its other powers.

(5) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (5)—

(a) if the offence is committed wilfully—6,250 penalty units or 5 years imprisonment; or

(b) otherwise—4,500 penalty units.

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Part 4A Temporary emissions licences

357AAA Definition for pt 4A

In this part—

applicable event see section 357A.

357A What is an *applicable event*

An ***applicable event*** is an event, or series of events, either natural or caused by sabotage, that—

(a) was not foreseen; or

(b) was foreseen but, because of a low probability of occurring, it was not considered reasonable to impose a condition on the authority to deal with the event or series of events;

when particular conditions were imposed on an environmental authority, when a transitional environmental program was issued, or when amendments to a transitional environmental program were approved.

357B Who may apply for temporary emissions licence

(1) A person may apply for a licence (a ***temporary emissions licence***) that permits the temporary relaxation or modification of—

(a) particular conditions of an environmental authority; or

(b) particular requirements or conditions of a transitional environmental program;

that relate to the release of a contaminant into the environment in response to an applicable event.

(2) A person may apply for a temporary emissions licence only if the person is the holder of—

(a) an environmental authority; or

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(b) a transitional environmental program.

(3) The application may be made—

(a) in anticipation of an applicable event; or

(b) in response to an applicable event.

Example of application in anticipation of an applicable event—

application to release a contaminant into water when flood waters are due to reach the site of an activity within hours or days

Example of application in response to an applicable event—

application to allow a waste transfer station to change its operating hours, or the types of material it receives, as part of a flood response after flood waters have receded

(4) The application must—

(a) be made—

(i) in person to an authorised person; or

(ii) by email or facsimile to the administering authority; and

(b) be supported by enough information to enable the administering authority to decide the application.

(5) The applicant must pay the administering authority the fee for the application prescribed under a regulation.

(6) If the applicant does not pay the fee within the period of at least 20 days stated for payment in a notice given to the applicant by the administering authority, the administering authority may recover it as a debt.

357C Deciding application

The administering authority must decide the application as soon as practicable, but no later than 24 hours after receiving it.

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357D Criteria for decision

In deciding the application, the administering authority must have regard to the following—

(a) the application;

(b) the extent and impact of the applicable event, including the potential economic impact of granting or not granting the licence;

(c) if the application is for a licence in anticipation of an applicable event—

(i) the likelihood of the applicable event happening; and

(ii) when the applicable event is likely to happen; and

(iii) what circumstances need to exist before the licence takes effect;

(d) the character, resilience and values of the receiving environment;

(e) the likelihood of environmental harm and any measures necessary to minimise the harm;

(f) the likelihood that the release will adversely impact the health, safety or wellbeing of another person;

Example of a release that adversely impacts another person—

a release of an emission that could affect the quality of downstream drinking water

(g) the cumulative impacts of all releases authorised or directed under this Act, including releases under other temporary emissions licences that have been issued or applied for;

(h) the public interest.

357E Decision about temporary emissions licence

(1) The administering authority may—

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(a) grant the application for a temporary emissions licence—

(i) as submitted; or

(ii) on different terms than have been requested in the application; or

Example for subparagraph (ii)—

the administering authority may grant a licence for less time or for fewer releases or on stricter conditions than is requested in the application

(b) refuse to grant the application for a temporary emissions licence.

(2) The administering authority may impose conditions on the temporary emissions licence it considers are necessary or desirable.

357F Information notice

The administering authority must give the applicant an information notice about the decision if the decision is to—

(a) grant the application on different terms than have been requested in the application; or

(b) refuse the application.

357G Temporary emissions licence

(1) A temporary emissions licence must state the following—

(a) the period for which the licence is issued;

(b) the timing, duration, volume and location of the releases permitted by the licence;

(c) for an environmental authority—the conditions of the environmental authority that the licence overrides;

(d) for a transitional environmental program—the requirements or conditions of the transitional environmental program that the licence overrides;

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(e) conditions to monitor the releases to ensure that the expected impact of the releases on the receiving environment is not exceeded.

(2) While the licence is in effect, the licence authorises the holder of the licence to do, or not to do, an act, or to make an omission, approved by the licence despite—

(a) a condition of an environmental authority; or

(b) a transitional environmental program or a condition of a transitional environmental program.

357H No transfer of licence

A temporary emissions licence can not be transferred to another person.

357I Failure to comply with conditions of licence

The holder of, or a person acting under, a temporary emissions licence must comply with the conditions of the licence.

Maximum penalty—

(a) if the offence is committed wilfully—6,250 penalty units or 5 years imprisonment; or

(b) otherwise—4,500 penalty units.

357J Amendment, cancellation or suspension of temporary emissions licence

The administering authority may amend, cancel or suspend a temporary emissions licence if—

(a) after granting the licence—

(i) the authority receives information that the effects of the release of a contaminant into the receiving environment will be greater than was envisaged by the authority when the licence was issued; or

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(ii) other applications for temporary emissions licences are made that would, if granted, affect the same environmental values as the issued licence; or

(b) for the amendment of a temporary emissions licence—the holder of the licence gives written agreement to the amendment; or

(c) for the cancellation of a temporary emissions licence—

(i) the holder of the licence agrees in writing to the cancellation; or

(ii) the holder of the licence gives the administering authority notice of ceasing the activity to which the licence relates.

Part 5 Environmental enforcement orders

Division 1 Interpretation

358 Definitions for part

In this part—

contamination incident see section 360.

enforcement ground, in relation to an environmental enforcement order, see section 359.

place, in relation to a contamination incident, means premises, another place on land or a vehicle.

prescribed person, for a contamination incident, see section 361.

related person, of a company, see section 369N.

relevant matter, for an environmental enforcement order, means—

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(a) for an order issued on an enforcement ground—the matter forming the basis for the ground; or

(b) otherwise—the matter forming the basis for the issuing of the order.

359 Meaning of *enforcement ground*

Each of the following is a ground (an ***enforcement ground***) on which to issue an environmental enforcement order to a person—

(a) the person has not complied with a requirement to conduct or commission an environmental evaluation and give or submit a report about the evaluation to the administering authority;

(b) the person has not complied with a requirement to apply for the issue of a transitional environmental program;

(c) it is necessary to issue an environmental enforcement order to secure the person's compliance with the general environmental duty;

(d) it is necessary to issue an environmental enforcement order to secure the person's compliance with the duty to restore the environment;

(e) it is necessary to issue an environmental enforcement order to secure the person's compliance with—

(i) an environmental protection policy; or

(ii) a condition of an environmental authority; or

(iii) a development condition of a development approval; or

(iv) a prescribed condition for carrying out a small scale mining activity; or

(v) a condition of a site management plan for relevant land; or

(vi) a PRCP schedule; or

(vii) an audit notice; or

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(viii) a surrender notice for an environmental authority; or

(ix) a surrender rehabilitation direction; or

(x) a general rehabilitation direction; or

(xi) a regulation; or

(xii) an agricultural ERA standard; or

(xiii) a transitional environmental program; or

(xiv) a condition of a temporary emissions licence;

(f) the person is contravening any of the following provisions, or has contravened any of the following provisions in circumstances that make it likely the contravention will continue or be repeated—

(i) section 426;

(ii) section 431A;

(iii) section 440;

(iv) section 440Q;

(v) section 440ZG;

(vi) a provision of chapter 8, part 3E or 3F.

360 Meaning of *contamination incident*

A ***contamination incident*** is—

(a) an incident involving contamination of the environment that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm; or

(b) the carrying out of an activity on contaminated land, the happening of an event on contaminated land, or a change in the condition of contaminated land that the administering authority is satisfied has caused or is likely to cause other land to become contaminated land; or

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(c) a combination of matters mentioned in paragraph (a) or (b).

361 Who is a *prescribed person* for a contamination incident

For this part, each of the following persons is a ***prescribed person*** for a contamination incident—

(a) a person causing or permitting, or who caused or permitted, the incident to happen;

(b) a person who, at the time of the incident, is or was—

(i) the occupier of a place at or from which the incident is happening or happened; or

(ii) the owner, or person in control, of a contaminant involved in the incident;

(c) for a contamination incident under section 360(b)—a prescribed responsible person for the land to which the incident relates;

(d) if an environmental enforcement order is issued to a corporation (the ***first corporation***) in relation to the incident and the corporation fails to comply with the order—

(i) a parent corporation of the first corporation; and

(ii) an executive officer of the first corporation.

Division 2 Environmental enforcement orders

Subdivision 1 General provisions

362 When environmental enforcement order may be issued

(1) The administering authority may issue an order (an ***environmental enforcement order***) to a person if the authority believes an enforcement ground exists for the person.

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(2) Also, the administering authority may issue an environmental enforcement order to a person—

(a) whom the authority believes to be a prescribed person for a contamination incident; or

(b) in the circumstances stated in division 4.

(3) To remove any doubt, it is declared that the administering authority may issue an environmental enforcement order to a person in relation to an activity even if the person is the holder of an environmental authority that authorises, or purportedly authorises, the activity.

363 Standard criteria to be considered before issue of environmental enforcement order

(1) Before deciding to issue an environmental enforcement order, the administering authority must consider the standard criteria.

(2) However, the administering authority is not required to consider the standard criteria before issuing an environmental enforcement order—

(a) on an enforcement ground mentioned in section 359(a), (b) or (f); or

(b) under section 362(2)(a).

364 Matters to consider before issuing environmental enforcement order relating to particular emissions

(1) This section applies to a contravention of section 440 involving an emission of aerosols, fumes, light, noise, odour, particles or smoke.

(2) Before deciding to issue an environmental enforcement order in relation to the contravention, the administering authority must—

(a) consider the general emission criteria stated in subsection (3); and

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(b) if the emission is of noise, consider the noise emission criteria stated in subsection (4); and

(c) having regard to those criteria, consider whether it would be appropriate to issue the order or to first try to resolve the matter in another way.

(3) The general emission criteria, for a particular emission, are as follows—

(a) the emission's characteristics or qualities;

(b) the emission's amount or rate;

(c) the duration and time of the emission;

(d) whether the emission is continuous or fluctuating;

(e) the characteristics and qualities of the receiving environment, including the types of emissions that could reasonably be expected in the receiving environment;

(f) the emission's impact on the receiving environment;

(g) in relation to each affected person for the emission—

(i) any views of the affected person about the emission of which the administering authority is aware, including views about the degree of interference caused, or likely to be caused, by the emission to lawful activities at the place occupied by the affected person; and

(ii) the order of occupancy between the person causing the emission and the affected person; and

(iii) for the period during which the person causing the emission has occupied the place from which the emission is generated and the affected person has occupied the place affected by the emission—

(A) any structural or other changes to either of those places; and

(B) any change to the activities conducted at either of those places by the person causing the emission or the affected person;

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(h) any mitigating measures that have been taken or could reasonably have been taken by the person causing the emission.

(4) The noise emission criteria are as follows—

(a) if the administering authority has measured a sound pressure level for the noise—that level;

(b) the audibility of the noise;

(c) whether the noise is continuous at a steady level or whether it has a fluctuating, intermittent, tonal or impulsive nature;

(d) whether the noise has vibration components.

(5) In this section—

affected person, for an emission, means a person who the administering authority knows to be affected by the emission.

Subdivision 2 Form, content and other matters

365 References to taking action

A reference in this subdivision to taking an action includes achieving an outcome.

Example—

An environmental enforcement order may state, as an action that must be taken, that the recipient must ensure contaminated water does not reach the aquifer.

366 Form and content of environmental enforcement order

(1) An environmental enforcement order must—

(a) be in the form of a written notice; and

(b) specify the person to whom it is issued; and

(c) state details about the relevant matter for the order; and

(d) if the order is issued under section 362(2)(a), state—

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(i) a description of the contamination incident; and

(ii) the place at or from which the administering authority believes the incident is happening or has happened; and

(e) state the actions the recipient must take to remedy or otherwise address the relevant matter for the order; and

Note—

See also section 367.

(f) for each action stated under paragraph (e)— state the time by which the action must be taken; and

Note—

See also section 368.

(g) state the review or appeal details; and

(h) state that it is an offence to fail to comply with the order unless the person has a reasonable excuse; and

(i) state the name, address and contact details of the administering authority; and

(j) be served on the recipient.

(2) The order may include any other information the administering authority considers appropriate.

Example—

The order may state how the administering authority proposes to monitor compliance with the order, including through the exercise of powers under chapter 9.

367 Actions stated under environmental enforcement order

(1) This section applies in relation to the requirement under section 366(1)(e) for an environmental enforcement order to state the actions the recipient must take under the order.

(2) Without limiting the actions that may be stated, an environmental enforcement order may—

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(a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the administering authority; or

(b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or

(c) state the reasonable steps the administering authority considers necessary to—

(i) remedy or otherwise address the relevant matter, including, for example, requiring a person to clean up, fix or rectify environmental harm; or

(ii) avoid contravention or further contravention of a provision of this Act; or

(d) if the order is issued on an enforcement ground mentioned in section 359(d) in relation to an incident involving contamination or under section 362(2)(a)—require the recipient to take stated action to do all or any of the following—

(i) prevent or minimise contamination;

Example—

action to contain, remove, disperse or destroy the contaminants

(ii) rehabilitate or restore the environment because of the incident, including by taking steps to mitigate or remedy the effects of the incident;

(iii) assess the nature and extent of the environmental harm, or the risk of further environmental harm, from the incident, including by inspecting, sampling, recording, measuring, calculating, testing or analysing;

(iv) keep the administering authority informed about the incident or the actions taken under the order, including by giving to the administering authority stated reports, plans, drawings or other documents.

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368 Time for taking action must be reasonable

(1) This section applies in relation to the requirement under section 366(1)(f) for an environmental enforcement order to state a time for taking a stated action.

(2) The time stated in the environmental enforcement order must be reasonable having regard to—

(a) the nature of the action that must be taken; and

(b) the risk to human health or the environment, or risk of loss or damage to property, posed by the relevant matter; and

(c) how long the person has been aware of the relevant matter, for example, because an authorised person has previously made an oral requirement that the relevant matter be remedied or otherwise addressed.

369 Other provisions relating to issuing environmental enforcement orders

(1) If an environmental enforcement order is issued to 2 or more recipients, a copy must be given to each recipient.

(2) If, for any reason, it is not practicable to make a requirement of a person to remedy or otherwise address an enforceable matter by issuing an environmental enforcement order, the requirement may be made orally and confirmed by an environmental enforcement order as soon as practicable.

Note—

Whether an oral requirement is made before issuing an environmental enforcement order may be relevant to the time by which the person may be required to remedy or otherwise address the relevant matter for the order. See section 368(2)(c).

(3) In this section—

enforceable matter means a matter that could form the basis for the issuing of an environmental enforcement order.

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Subdivision 3 Offence relating to environmental enforcement orders

369A Offence not to comply with environmental enforcement order

(1) The recipient of an environmental enforcement order must not wilfully contravene a requirement of the order unless the person has a reasonable excuse.

Maximum penalty—

(a) if the order was issued on a prescribed ground or under section 362(2)(a)—6,250 penalty units or 5 years imprisonment; or

(b) otherwise—1,655 penalty units.

(2) The recipient of an environmental enforcement order must not contravene a requirement of the order unless the person has a reasonable excuse.

Maximum penalty—

(a) if the order was issued on a prescribed ground or under section 362(2)(a)—4,500 penalty units; or

(b) otherwise—600 penalty units.

(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

(4) In this section—

prescribed ground means—

(a) an enforcement ground mentioned in section 359(c) or (d) involving serious or material environmental harm; or

(b) an enforcement ground mentioned in section 359(e)(ii), (iii), (iv), (v), (vi), (xiii) or (xiv) or (f)(i).

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369B Defences for particular proceedings

(1) This section applies in relation to an environmental enforcement order issued under section 362(2)(a).

(2) In a proceeding for an offence against section 369A(1) or (2), it is a defence for the recipient of the environmental enforcement order to show—

(a) that the recipient is not a prescribed person for the contamination incident; or

(b) that—

(i) the contamination incident was caused by a natural disaster; and

(ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the probability of the natural disaster; or

(c) that—

(i) the contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and

(ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident; or

(d) if the recipient is a prescribed person mentioned in section 361(d)(i), that the person took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or

(e) if the recipient is a prescribed person mentioned in section 361(d)(ii), that—

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(i) the person took all reasonable steps to ensure the first corporation complied with the notice served on the first corporation; or

(ii) the person was not in a position to influence the conduct of the first corporation in relation to its compliance with the notice served on the first corporation.

(3) In this section—

first corporation see section 361(d).

Subdivision 4 Other provisions

369C Notice of disposal by recipient in particular circumstances

(1) This section applies if the recipient of an environmental enforcement order proposes to dispose of the place or business to which the order relates to someone else (the ***buyer***).

(2) Before agreeing to dispose of the place or business, the recipient must give written notice to the buyer of the existence of the order.

Maximum penalty—50 penalty units.

(3) If the recipient does not comply with subsection (2), the buyer may rescind the agreement by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.

(4) On rescission of the agreement under subsection (3)—

(a) a person who was paid amounts by the buyer under the agreement must refund the amounts to the buyer; and

(b) the buyer must return to the recipient any documents about the disposal (other than the buyer's copy of the agreement).

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(5) Subsections (3) and (4) have effect despite anything to the contrary in the agreement.

(6) Within 10 business days after agreeing to dispose of the place or business, the recipient must give written notice of the disposal to the administering authority.

Maximum penalty for subsection (6)—50 penalty units.

369D Notice of ceasing to carry out activity

(1) This section applies if—

(a) the relevant matter for an environmental enforcement order relates to the carrying out of an activity; and

(b) the recipient of the order ceases carrying out the activity.

(2) Within 10 business days after ceasing to carry out the activity, the recipient must give written notice of the ceasing to carry out the activity to the administering authority.

Maximum penalty—50 penalty units.

369E Procedure if recipient is not the owner of land on which action is required

(1) This section applies if an environmental enforcement order requires the recipient to take action on land that the recipient does not own.

(2) The recipient, or person taking the action for the recipient (the ***contractor***), may enter the land to take the action only—

(a) with the consent of the owner and occupier of the land; or

(b) if the recipient or contractor has given at least 2 business days written notice to the owner and occupier.

Note—

See also section 369G.

(3) The notice under subsection (2)(b) must inform the owner and occupier of—

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(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

(4) Nothing in this section authorises the recipient or contractor to enter a building used for residential purposes.

369F Taking action in place of recipient

(1) This section applies if—

(a) the recipient of an environmental enforcement order fails to take an action stated in the order within the time stated in the order; or

(b) the operation of the decision to issue an environmental enforcement order is stayed under section 539A or 539B.

(2) An authorised person, or person acting under the direction of an authorised person (the ***contractor***), may take the action stated in the order.

(3) For subsection (2), the authorised person or contractor may enter land on which the action is required to be taken—

(a) with the consent of the owner and occupier of the land; or

(b) if the authorised person or contractor has given at least 2 business days written notice to the owner and occupier.

Note—

See also section 369G.

(4) The notice under subsection (3)(b) must inform the owner and occupier of—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the entry is to be made.

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(5) Subsection (3) does not limit another provision of this Act under which an authorised person may enter land.

Note—

See also sections 452 and 458 for other powers to enter a place to take the action.

(6) Nothing in this section authorises the authorised person or contractor to enter a building used for residential purposes.

369G Provision about taking action on land

(1) This section applies in relation to—

(a) a recipient or contractor who, under section 369E(2), enters land on which action is required to be taken; or

(b) an authorised person or contractor who, under section 369F(3), enters land on which action is required to be taken.

(2) In taking the action, the recipient, authorised person or contractor must take all reasonable steps to ensure the recipient, authorised person or contractor causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(3) If a person incurs loss or damage because of action taken by the recipient, authorised person or contractor, the person is entitled to be paid by the recipient, authorised person or contractor reasonable compensation for the loss or damage—

(a) as agreed between the recipient, authorised person or contractor and the person; or

(b) failing agreement under paragraph (a), as decided by a court having jurisdiction for the recovery of amounts up to the amount of compensation claimed.

(4) Subsection (3) does not apply to loss or damage incurred by a company of whom a recipient is a related person.

(5) The court may make an order about costs it considers just.

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369H Cost recovery by recipient of environmental enforcement order in particular circumstances

(1) This section applies in relation to an environmental enforcement order issued under section 362(2)(a).

(2) To the extent that the recipient of the environmental enforcement order complies with the order but did not cause or permit the contamination incident to happen, the recipient may recover as a debt, from another person who caused or permitted the contamination incident to happen, the amount of loss or expense incurred by the recipient in complying with the order.

369I Obstruction of recipient complying with environmental enforcement order

(1) A person must not obstruct the recipient of an environmental enforcement order in the taking of action to comply with the order, unless the person has a reasonable excuse.

Maximum penalty—165 penalty units.

(2) In this section—

recipient, of an environmental enforcement order, includes a person acting for the recipient of the order.

Division 3 Cost recovery notices

369J Administering authority may issue cost recovery notice

(1) The administering authority may issue a written notice (a ***cost recovery notice***)—

(a) to the recipient of an environmental enforcement order if—

(i) the recipient fails to comply with the order; and

(ii) an authorised person or contractor acts under section 369F in relation to the order; or

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(b) to the recipient of an environmental enforcement order if—

(i) the operation of the decision to issue the order is stayed under section 539A or 539B; and

(ii) during the period of the stay, an authorised person or contractor acts under section 369F in relation to the order; and

(iii) the appeal ends and—

(A) there is no decision under section 530 or 539; or

(B) the effect of the decision under section 530 or 539 is to confirm the decision to issue the order to the extent the order required the recipient to take the action that was ultimately taken by the authorised person or contractor under section 369F; or

(C) the effect of the decision under section 530 or 539 is to issue an environmental enforcement order requiring the recipient to take action for the same purpose as the action that was ultimately taken by the authorised person or contractor under section 369F; or

(c) to a person whom the administering authority believes to be a prescribed person for a contamination incident, if an authorised person, or person authorised under section 467(1)(b), acts under section 467 in relation to environmental harm caused or likely to be caused by the incident.

(2) A cost recovery notice may claim an amount for costs or expenses reasonably incurred in—

(a) for a notice issued under subsection (1)(a) or (b)—

(i) taking an action stated in the environmental enforcement order; or

(ii) monitoring compliance by the recipient with the environmental enforcement order; or

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(b) for a notice issued under subsection (1)(c)—taking the action under section 467.

(3) A cost recovery notice must state the following matters—

(a) the name of the recipient of the notice;

(b) the reasons why the administering authority is issuing the notice;

(c) if the notice relates to a contamination incident—the place at or from which the administering authority is satisfied the incident happened;

(d) the amount claimed;

(e) a description of costs and expenses giving rise to the amount claimed;

(f) that, if the recipient does not pay the amount claimed to the administering authority within 30 days after the day the notice is issued, the administering authority may recover the amount from the recipient as a debt;

(g) the name, address and contact details of the administering authority;

(h) the review or appeal details.

(4) Subject to section 369K, if the recipient of the cost recovery notice does not pay the amount to the administering authority within 30 days after the day the notice is issued, the administering authority may recover the amount from the recipient as a debt.

(5) A reference in this section to an authorised person includes a person acting under the direction of an authorised person.

(6) In this section—

costs and expenses includes labour, equipment and administrative costs and expenses.

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369K When amount claimed under cost recovery notice is not payable

(1) This section applies if a cost recovery notice is issued to the recipient of an environmental enforcement order that was issued under section 362(2)(a).

(2) The amount claimed under the cost recovery notice is not payable—

(a) if the recipient is not a prescribed person for the contamination incident; or

(b) if both of the following apply—

(i) the contamination incident was caused by a natural disaster;

(ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the probability of the natural disaster; or

(c) if both of the following apply—

(i) the contamination incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient;

(ii) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident; or

(d) for a recipient who is a prescribed person mentioned in section 361(d)(i), if the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or

(e) for a recipient who is a prescribed person mentioned in section 361(d)(ii), if—

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(i) the recipient took all reasonable steps to ensure the first corporation paid the amount claimed under the notice served on the first corporation; or

(ii) the recipient was not in a position to influence the conduct of the first corporation in relation to its paying the amount claimed under the notice served on the first corporation.

(3) To the extent that the recipient pays an amount in compliance with the cost recovery notice but did not cause or permit the contamination incident to happen, the recipient may recover the amount as a debt from another person who caused or permitted the contamination incident to happen.

(4) In this section—

first corporation see section 361(d).

369L Several recipients of a cost recovery notice

If a cost recovery notice is issued to 2 or more recipients—

(a) a copy of the notice must be given to each recipient; and

(b) the amount claimed under the notice is payable by the recipients jointly and severally.

Division 4 Issue of orders to related persons of companies

369M Definitions for division

In this division—

associated entity has the meaning given by the Corporations Act, section 50AAA.

financial interest, in a company, means a direct or indirect interest in—

(a) shares in the company; or

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(b) a mortgage, charge or other security given by the company; or

(c) income or revenue of the company.

high risk company means—

(a) a company that is an externally-administered body corporate within the meaning given by the Corporations Act, section 9; or

(b) a company that is an associated entity of a company mentioned in paragraph (a).

interest means a legal or equitable interest.

relevant activity, in relation to a company, means an activity—

(a) that was, or is being, carried out by the company under an environmental authority; or

(b) that was, or is being, carried out by the company and has caused, or is causing or likely to cause, serious or material environmental harm.

369N Who is a *related person* of a company

(1) A person is a ***related person*** of a company if—

(a) the person is a holding company of the company; or

(b) the person owns land on which the company carries out, or has carried out, a relevant activity other than a resource activity; or

(c) the person—

(i) is an associated entity of the company; and

(ii) owns land on which the company carries out, or has carried out, a relevant activity that is a resource activity; or

(d) the administering authority decides under this section the person has a relevant connection with the company.

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(2) The administering authority may decide a person has a relevant connection with a company if satisfied—

(a) the person is capable of significantly benefiting financially, or has significantly benefited financially, from the carrying out of a relevant activity by the company; or

(b) the person is, or has been at any time during the previous 2 years, in a position to influence the company's conduct in relation to the way in which, or extent to which, the company complies with its obligations under this Act.

(3) A reference in subsection (2)(b) to a person being in a position to influence a company's conduct includes a person being in that position—

(a) whether alone or jointly with an associated entity of the company; and

(b) whether by giving a direction or approval, by making funding available or in another way.

(4) In deciding for subsection (2) whether a person has a relevant connection with a company (the ***first company***), the matters an administering authority may consider include the following—

(a) the extent of the person's control of the first company;

(b) whether the person is an executive officer of—

(i) the first company; or

(ii) a holding company or other company with a financial interest in the first company;

(c) the extent of the person's financial interest in the first company;

(d) the extent to which a legally recognisable structure or arrangement makes or has made it possible for the person to receive a financial benefit from the carrying out of a relevant activity by the first company, including

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(but not limited to) a structure or arrangement under which—

(i) the person is not entitled to require a financial benefit; but

(ii) it is possible for the person to receive a financial benefit because of a decision by someone else or the exercise of a discretion by someone else;

(e) any agreements or other transactions the person enters into with a company mentioned in paragraph (b)(i) or (ii);

(f) the extent to which dealings between the person and a company mentioned in paragraph (b)(i) or (ii) are—

(i) at arm's length; or

(ii) on an independent, commercial footing; or

(iii) for the purpose of providing professional advice; or

(iv) for the purpose of providing finance, including the taking of a security;

(g) the extent of the person's compliance with a requirement under section 451 for information relevant to the making of a decision under this section.

(5) The matters mentioned in subsection (4) may be considered as at the time the administering authority is making the decision under subsection (2) or as at an earlier time relevant to the decision.

(6) In deciding for subsection (2) whether a person, other than an associated entity of a company, has a relevant connection with the company, it is irrelevant if the person—

(a) is capable of significantly benefiting financially, or has significantly benefited financially—

(i) under an agreement or obligation relating to native title, Aboriginal cultural heritage or Torres Strait Islander cultural heritage; or

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(ii) under a conduct and compensation agreement, or from compensation paid or payable, under resource legislation; or

(iii) under a make good agreement for a water bore under the *Water Act 2000*; or

(b) is or has been in a position to influence the company's conduct because of an agreement or obligation mentioned in paragraph (a).

(7) In making a decision under this section, the administering authority must have regard to any relevant guidelines in force under section 548A.

(8) In this section—

control has the meaning given by the Corporations Act, section 50AA.

financial benefit, received by a person, includes profit, income, revenue, a dividend, a distribution, money's worth, an advantage, priority or preference, whether direct or indirect, that is received, obtained, preferred on or enjoyed by the person.

owner, of land, does not include a person mentioned in schedule 4, definition *owner*, paragraph 1(d) to (f).

369O Decision whether to issue an order

In deciding whether to issue an environmental enforcement order to a related person of a company under section 369P or 369Q, the administering authority—

(a) must have regard to any relevant guidelines in force under section 548A; and

(b) may consider whether the related person took all reasonable steps, having regard to the extent to which the person was in a position to influence the company's conduct, to ensure the company—

(i) complied with its obligations under this Act; and

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(ii) made adequate provision to fund the rehabilitation and restoration of the land because of environmental harm from a relevant activity carried out by the company.

369P Order may be issued to related person

(1) When issuing an environmental enforcement order to a company under division 2, or if an environmental enforcement order issued to a company under division 2 is in force, the administering authority may also issue an environmental enforcement order under division 2 to a related person of the company.

(2) However, subsection (1) does not apply if the environmental enforcement order is issued to the company under section 362(2)(a).

(3) The order may impose any requirement on the related person that is being, or has been, imposed on the company, as if the related person were the company.

369Q Order may be issued to related person of high risk company

(1) The administering authority may issue an environmental enforcement order under division 2 to a related person of a high risk company, whether or not an environmental enforcement order is being issued, or has been issued, to the high risk company.

(2) The order may impose any requirement on the related person that could be imposed on the high risk company under division 2, as if the related person were the high risk company.

(3) If the high risk company has stopped holding an environmental authority, the order may include any requirements that could be imposed if the company still held the environmental authority.

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Example—

The order may include a requirement to secure compliance with a condition of an environmental authority that the high risk company no longer holds.

(4) Also, the order may require the related person to—

(a) take action to prevent or minimise the risk of unlawful serious or material environmental harm—

(i) from a relevant activity; or

(ii) from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or

(b) take action to rehabilitate or restore land because of environmental harm—

(i) from a relevant activity; or

(ii) from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or

(c) give the administering authority a bank guarantee or other security for the related person's compliance with the order.

369R Order may provide for joint and several liability

If a requirement is made of 2 or more related persons of a company, the environmental enforcement order or orders issued to them may provide that the related persons are jointly and severally liable for complying with the requirement, including for the costs of compliance.

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Part 8 Contaminated land

Division 1 Interpretation

370 Definitions for pt 8

In this part—

relevant land means land for which particulars are recorded in a relevant land register.

relevant land register means the environmental management register or contaminated land register.

site investigation report, for relevant land, means a report about an investigation of the land to scientifically assess whether the land is contaminated land.

site management plan, for relevant land, means a plan for managing the environmental harm that may be caused by the hazardous contaminant contaminating the land by applying conditions to the use or development of, or activities carried out on, the land.

site suitability statement see section 389(2)(b).

validation report, for relevant land, means a report about work carried out to remediate the land.

370A References to owner

In this part, a reference to an owner includes a reference to a department that is responsible for managing land that is—

(a) unallocated State land; or

(b) a reserve under the *Land Act 1994* for which there is no trustee; or

(c) a State-controlled road.

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Division 2 Including land in relevant land register

Subdivision 1 Preliminary

371 Grounds for including land in environmental management register

The administering authority may record particulars of land in the environmental management register at any time if the authority—

(a) is satisfied a notifiable activity has been, or is being, carried out on the land; or

(b) is satisfied or suspects, on reasonable grounds, the land is contaminated land.

372 Grounds for including land in contaminated land register

(1) This section applies to land if particulars of the land are recorded in the environmental management register.

(2) The administering authority may record particulars of the land in the contaminated land register at any time if the authority is satisfied—

(a) the land is contaminated land; and

(b) it is necessary to take action to remediate the land to prevent serious environmental harm.

Subdivision 2 Show cause process for including land in relevant land register

373 Application of sdiv 2

This subdivision applies if the administering authority proposes to record particulars of land in a relevant land

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register other than on the basis of an inclusion request made by the owner of the land.

374 Process for including land in relevant land register

Particulars of land may be included in a relevant land register only if the process in this division is followed.

375 Show cause notice to be given to owner of land

(1) The administering authority must give the land's owner written notice (a ***show cause notice***) about the proposal to include particulars of the land in a relevant land register.

(2) The show cause notice must state the following—

(a) that the administering authority believes, or suspects on reasonable grounds, that grounds exist for including particulars of the land in a relevant land register;

(b) the facts and circumstances relied on to support the grounds;

(c) that the owner may make a written submission to the authority about why particulars of the land should not be included in the relevant register;

(d) the day by which the owner may make the submission;

(e) that the submission must be accompanied by a written declaration by the owner that the owner—

(i) has not knowingly included any false or misleading information in the submission; and

(ii) has given all relevant information to the authority.

(3) For subsection (2)(d), the day must be at least 20 business days after the show cause notice is given to the owner.

(4) Also, if an investigation of the land has been conducted and the administering authority holds a copy of a report prepared about the investigation, the show cause notice must be accompanied by a copy of the report.

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376 Making and considering submission

(1) The land's owner may make a written submission to the administering authority by the day stated in the show cause notice.

(2) The submission must be accompanied by—

(a) the declaration mentioned in section 375(2)(e); and

(b) if an investigation of the land has been conducted—a copy of the report prepared about the investigation mentioned in section 375(4).

(3) The administering authority must consider a submission made by the owner under this section.

377 Decision about including land in relevant land register etc.

(1) If, after considering the submission, the administering authority still believes grounds exist to record particulars of the land in the relevant land register, the authority must record the particulars in the register.

(2) If the administering authority records particulars of the land in the contaminated land register, the administering authority must remove the particulars of the land from the environmental management register.

378 Notice of decision about including land in relevant land register

The administering authority must, within 5 business days after deciding whether to include particulars in the register, give an information notice about the decision to—

(a) the land's owner; and

(b) the relevant local government; and

(c) if the decision is to record particulars of the land in the contaminated land register—any registered mortgagee of the land.

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379 Notice to registrar of titles about including land in contaminated land register

The administering authority must, within 5 business days after recording particulars of land in the contaminated land register, give written notice that the particulars have been recorded to the registrar of titles.

Subdivision 2A Voluntary inclusion of land in relevant register

379A Purpose of subdivision

The purpose of this subdivision is to allow an owner of land to ask for particulars of the land to be included in a relevant land register without subdivision 2 being complied with.

379B Voluntary inclusion of land in relevant land register

(1) An owner of land may, by written request (an ***inclusion request***), ask the administering authority to include particulars of the land in a stated relevant land register.

(2) The inclusion request must state—

(a) the grounds on which the owner believes the land could be included in the relevant land register and the facts and circumstances relied on in support of the grounds; and

(b) that the owner waives the application of subdivision 2 for the inclusion of particulars of the land in the relevant land register.

379C Administering authority may request further information

(1) The administering authority may ask the owner, by written request, to give further information needed to assess the inclusion request within a stated reasonable period of at least 3 business days.

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(2) The request must be made within 3 business days after the inclusion request is received.

379D Deciding inclusion request

The administering authority must decide whether to approve or refuse to approve the inclusion request—

(a) if the administering authority requests further information under section 379C—within 5 business days after the further information is received by the authority; or

(b) otherwise—within 5 business days after the inclusion request was received.

379E Criteria for decision

(1) In deciding whether to approve the inclusion request, the administering authority must consider—

(a) the grounds stated in the inclusion request and the facts and circumstances relied on in support of the grounds; and

(b) further information received in response to a request under section 379C; and

(c) the grounds for including particulars of land in the relevant land register stated in the application under section 371 or 372.

(2) However, the administering authority may approve the inclusion request only if the administering authority is satisfied there are grounds for including particulars of the land in the relevant land register under section 371 or 372.

379F Steps after making decision

Within 5 business days after deciding the inclusion request, the administering authority must—

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(a) if the decision was to approve the inclusion request—give written notice of the decision to—

(a) the land's owner; and

(b) the relevant local government; and

(c) if the decision is to record particulars of the land in the contaminated land register—any registered mortgagee of the land; or

(b) if the decision was to refuse to approve the inclusion request—give the land's owner an information notice about the decision.

379G Notice to registrar of titles about including land in contaminated land register

The administering authority must, within 5 business days after recording particulars of land in the contaminated land register, give written notice that the particulars have been recorded to the registrar of titles.

Subdivision 3 Amending or removing particulars in relevant land register

380 Amending or removing particulars of land

The administering authority may amend particulars of land recorded in a relevant land register, or remove particulars of land from a relevant land register, only under this subdivision.

381 Site investigation report or validation report

(1) This section applies if the administering authority receives a site investigation report or validation report for the land that complies with division 3, subdivision 2.

(2) The administering authority must—

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(a) if the site suitability statement accompanying the site investigation report or validation report states the land is not contaminated land and is suitable for any use—remove particulars of the land from the relevant land register; or

(b) otherwise—amend the particulars of the land in the relevant land register to record the uses for which the land is suitable in accordance with the site suitability statement.

383 Site management plan

(1) This section applies if the administering authority—

(a) approves a draft site management plan for the land under division 3, subdivision 4; or

(b) prepares a draft site management plan for the land under division 3, subdivision 5; or

(c) amends or approves an amendment of a draft site management plan for the land.

(2) The administering authority must include the details of the site management plan with the particulars of the land recorded in the relevant land register.

384 Minor amendment

The administering authority may, on the authority's own initiative, amend particulars of the land recorded in the relevant land register if the amendment is a change that corrects only—

(a) a clerical mistake in the particulars of the land; or

(b) a spelling or grammatical error.

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385 Notice to be given if particulars of land amended in or removed from register

(1) This section applies if the administering authority decides to—

(a) amend particulars of land in a relevant land register; or

(b) remove particulars of land from a relevant land register.

(2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to each of the following persons—

(a) the land's owner;

(b) if a person other than the land's owner submitted a site investigation report, validation report or draft site management plan for the land—the other person;

(c) if the decision is to remove particulars of the land from the relevant land register—the relevant local government.

(3) If section 381 applies, the notice must be accompanied by a copy of the site suitability statement that accompanied the site investigation report or validation report for the land.

386 Notice to registrar of titles if particulars of land amended in or removed from contaminated land register

(1) This section applies if the administering authority decides to—

(a) amend particulars of land in the contaminated land register; or

(b) remove particulars of land from the contaminated land register.

(2) The administering authority must, within 5 business days after making the decision, give written notice of the decision to the registrar of titles.

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Division 3 Contaminated land investigation documents

Subdivision 1 Preliminary

387 Definition for div 3

In this division—

contaminated land investigation document, for relevant land, means any of the following for the land—

(a) a site investigation report;

(b) a validation report;

(c) a draft site management plan.

Subdivision 2 Content and submission of contaminated land investigation documents

388 Application of sdiv 2

(1) This subdivision applies if—

(a) a site investigation report for relevant land is required to be prepared under an investigation notice for the land; or

(b) a validation report for relevant land is required to be prepared under an environmental enforcement order issued under section 362(2) for the land; or

(c) a draft site management plan is required to be prepared under section 391; or

(d) a contaminated land investigation document is required to be prepared under a notice given or order made under this Act.

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Note—

See section 565 about who may prepare a contaminated land investigation document.

(2) Also, this subdivision applies if a person, at any time, voluntarily gives the administering authority a contaminated land investigation document for relevant land.

389 Content of contaminated land investigation document

(1) This section applies to a contaminated land investigation document for relevant land.

(2) If the contaminated land investigation document is a site investigation report or validation report, the document must be in the approved form and include—

(a) the following information about the relevant land—

(i) the reasons particulars of the land have been recorded in a relevant land register;

(ii) a description of all surface and subsurface infrastructure on the land, including details of the location, size and type of the infrastructure;

(iii) a description of the surrounding area of the land, including a description of each of the following in the surrounding area—

(A) all environmentally sensitive areas;

(B) the location of all water, watercourses and wetlands;

(C) the location of all stormwater drainage;

(D) all uses of the land, including uses that may affect the safety of the relevant land or cause environmental harm;

(E) all activities carried out that may affect the safety of the relevant land or cause environmental harm;

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(iv) for waste disposed of or stored on the land that contains, or may potentially contain, hazardous contaminants—

(A) details of the location, volume and type of the waste; and

(B) details of any potential contamination of the land caused by disposing of or storing the waste on the land;

(v) a description of the geology and hydrogeology of the land;

(vi) details of any environmentally relevant activities or notifiable activities carried out on the land, including the materials used and waste produced during the carrying out of the activities;

(vii) details of any earthworks carried out on the land, including the materials used and waste produced during the earthworks;

(viii) if work has been carried out on the land to remediate the contamination of the land—the contamination levels recorded on the land before and after the work was carried out; and

(b) a statement (a ***site suitability statement***) of the uses or activities for which the land is suitable; and

(c) a statement of the following matters—

(i) whether the land is prescribed contaminated land;

(ii) if the land is contaminated—the extent to which the land is contaminated.

(3) If the contaminated land investigation document is a draft site management plan, the document must be in the approved form and include—

(a) the following information about the relevant land—

(i) the proposed objectives to be achieved and maintained under the plan;

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(ii) the proposed methods for achieving and maintaining the objectives;

(iii) the proposed monitoring and reporting compliance measures for the land; and

(b) a site suitability statement; and

(c) a statement of the following matters—

(i) whether the land is prescribed contaminated land;

(ii) if the land is contaminated—the extent to which the land is contaminated;

(iii) whether the proposed objectives, methods and measures stated in the plan under paragraph (a) are appropriate; and

(d) a reference to, and a copy of, the site investigation report or validation report that relates to the draft site management plan; and

(e) a description of the source, cause and extent of environmental harm to be managed under the plan.

(4) A contaminated land investigation document must be accompanied by a certification by an auditor (an ***auditor's certification***) that—

(a) is in the approved form; and

(b) verifies that the document complies with subsection (2) or (3).

(5) In this section—

environmentally sensitive area means an area prescribed by regulation as an environmentally sensitive area.

prescribed contaminated land means land contaminated in a way that causes a risk of environmental harm to—

(a) land other than the relevant land; or

(b) human health; or

(c) another part of the environment.

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water has the meaning given under the *Water Act 2000*.

390 Requirements for submission of contaminated land investigation document

(1) This section applies if a person gives the administering authority a contaminated land investigation document.

(2) The document must be accompanied by a declaration, made by the relevant person, that the person—

(a) has not knowingly given any false or misleading information to the auditor who certified the document; and

(b) has given all relevant information to the auditor; and

(c) if the person is not the land's owner—has given a copy of the document to the owner.

(3) The ***relevant person*** is—

(a) if the contaminated land investigation document is given to the administering authority in order to comply with a notice given to a person by the authority under this Act—the person to whom the notice was given; or

(b) otherwise—the person who gives the document to the administering authority.

(4) However, if the person mentioned in subsection (3)(a) or (b) is a corporation, an executive officer of the corporation is taken to be the relevant person.

(5) The contaminated land investigation document must also be accompanied by—

(a) for a draft site management plan prepared by a person other than the land's owner—a statement by the land's owner agreeing to the draft plan; and

(b) the fee prescribed by regulation.

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Subdivision 3 Preparation of draft site management plan

391 Show cause notice

(1) This section applies to relevant land only if the administering authority believes—

(a) the land is contaminated land; and

(b) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land.

(2) The administering authority may require a prescribed responsible person for the land to prepare or commission a draft site management plan for the land and submit the draft plan to the authority, in accordance with subdivision 2.

(3) Also, the administering authority may prepare a site management plan for the relevant land.

(4) Before taking action under subsection (2) or (3), the administering authority must give the prescribed responsible person a notice (a ***show cause notice***) inviting the person to show cause why the action should not be taken.

(5) A show cause notice must be in writing and state the following—

(a) that the administering authority proposes to—

(i) require the prescribed responsible person to prepare or commission a draft site management plan for the relevant land; or

(ii) prepare a site management plan for the relevant land;

(b) the facts and circumstances forming the basis for the administering authority's belief that—

(i) the land is contaminated land; and

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(ii) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land;

(c) that representations may be made about the proposed action;

(d) how the representations may be made;

(e) the period during which the representations must be made.

(6) For subsection (5)(e), the period must end at least 20 business days after the day the show cause notice is given to the prescribed responsible person.

392 Making and consideration of submission

(1) The prescribed responsible person may, within the period stated in the show cause notice, make a written submission to the administering authority about why the action (the ***proposed action***) stated in the show cause notice should not be taken.

(2) The administering authority must consider a submission made by the prescribed responsible person under subsection (1).

393 Decision about taking action

If, after complying with section 392(2), the administering authority still believes it is appropriate to take the proposed action, the authority may decide to take the action.

394 Notice of decision

(1) This section applies if the administering authority decides to require the prescribed responsible person for the land to prepare or commission a draft site management plan for the land.

(2) The administering authority must give the prescribed responsible person a written notice that requires the person to

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prepare or commission a draft site management plan for the relevant land, and give the draft plan to the administering authority, in accordance with subdivision 2.

(3) The notice must state—

(a) the grounds on which the notice is given; and

(b) the matters to be addressed by the draft site management plan for the land; and

(c) the day (at least a reasonable period after the notice is given) by which the draft plan must be prepared and given to the administering authority; and

(d) the review or appeal details.

(4) If the prescribed responsible person is not the land's owner, the administering authority must also give a copy of the notice to the owner.

Note—

See section 565 about who may prepare a draft site management plan.

(5) A prescribed responsible person for relevant land who receives a notice under this section must comply with the notice.

Maximum penalty for subsection (5)—300 penalty units.

395 Procedure to be followed if recipient is not owner

(1) This section applies if the prescribed responsible person who receives a notice under section 394 in relation to relevant land is not the land's owner.

(2) The prescribed responsible person, or a person (a ***consultant***) preparing the draft site management plan for the prescribed responsible person, may enter the land to prepare the draft plan—

(a) with the consent of the owner and occupier of the land; or

(b) if the prescribed responsible person or consultant has given the owner and occupier at least 5 business days

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written notice of the person's or consultant's intention to enter the land.

(3) The notice must state—

(a) the intention to enter the land; and

(b) the purpose of the entry; and

(c) the days and times when the land is to be entered.

(4) Nothing in this section authorises the prescribed responsible person or consultant to enter a building used for residential purposes.

(5) When preparing the draft site management plan, the prescribed responsible person or consultant must take all reasonable steps to ensure the person or consultant causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(6) If a person (the ***affected person***) incurs loss or damage because of the entry of the land by the prescribed responsible person or consultant to prepare a draft site management plan, the affected person is entitled to be paid by the prescribed responsible person or consultant reasonable compensation because of the loss or damage—

(a) that is agreed between the prescribed responsible person or consultant and the affected person; or

(b) if an agreement can not be reached—as decided by a court of competent jurisdiction.

(7) For subsection (6)(b), the court may make the order about costs that the court considers just.

Subdivision 4 Consideration of draft site management plans

396 Application of sdiv 4

This subdivision applies if a draft site management plan for relevant land is given to the administering authority.

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397 Requiring another site management plan or additional information

(1) This section applies if the administering authority is satisfied—

(a) a draft site management plan does not adequately address the matters stated in section 389; or

(b) the person (the ***submitter***) who gave the draft plan to the authority did not comply with section 390; or

(c) the draft plan was not prepared by a suitably qualified person, as required by section 565.

(2) The administering authority may require the submitter to—

(a) amend the draft site management plan; or

(b) prepare or commission another draft site management plan for the relevant land.

(3) Also, the administering authority may require the submitter to—

(a) give the authority stated additional information about the draft site management plan; or

(b) verify, by statutory declaration—

(i) stated information in the draft site management plan; or

(ii) additional information required under paragraph (a).

(4) If the administering authority makes a requirement under this section, the authority must give the submitter an information notice about the decision to make the requirement.

398 Deciding whether to approve draft site management plan

(1) If section 397(2) does not apply, the administering authority must, within 20 business days after receiving a draft site management plan, decide whether to approve the draft plan.

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(2) The administering authority may decide to extend the period mentioned in subsection (1) if the authority—

(a) has made a requirement under section 397(3); or

(b) is satisfied special circumstances exist that justify extending the period.

(3) The administering authority must give an information notice for the decision to—

(a) the submitter; and

(b) if the submitter is not the land's owner—the owner.

(4) The information notice must be given before the end of whichever of the following happens last—

(a) the period mentioned in subsection (1); or

(b) if the period is extended under subsection (2)—the extended period.

(5) If the administering authority fails to decide whether to approve a draft site management plan within the period required under this section, the authority is taken to have refused to approve the draft plan at the end of the period.

399 Approval of draft site management plan

(1) This section applies if the administering authority decides to approve a draft site management plan for relevant land.

(2) The administering authority must, within 5 business days after making the decision—

(a) record the details of the plan in the relevant land register in which particulars of the land are recorded; and

(b) give the submitter and the relevant local government, and, if the submitter is not the land's owner, the owner—

(i) a certificate of approval for the plan; and

(ii) written notice of the approval; and

(iii) a copy of the site suitability statement for the land that accompanied the plan.

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400 Refusal to approve draft site management plan

(1) This section applies if the administering authority refuses to approve a draft site management plan for relevant land.

(2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to—

(a) the submitter; and

(b) if the submitter is not the land's owner—the owner.

Subdivision 5 Preparation of site management plan by administering authority

401 Procedure if administering authority prepares site management plan

(1) This section applies if the administering authority prepares a site management plan for relevant land under section 391(3).

(2) The administering authority must, within 5 business days after preparing the site management plan—

(a) record the details of the plan in the relevant land register in which particulars of the land are recorded; and

(b) give the land's owner and the relevant local government—

(i) written notice that the plan has been prepared; and

(ii) a copy of the site management plan, including the site suitability statement that accompanies the plan.

(3) The notice must state—

(a) the reasons why the administering authority prepared the site management plan; and

(b) the review or appeal details.

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Subdivision 6 Amendment of site management plan

402 Voluntary amendment of site management plans

(1) This section applies if a person wants to amend a site management plan.

(2) Subdivisions 2 to 4 apply—

(a) as if a reference in those subdivisions to a draft site management plan were a reference to a draft amendment of a site management plan; and

(b) with any other necessary changes.

403 Amendment of site management plan with written agreement

The administering authority may, at any time, amend a site management plan for relevant land with the written agreement of—

(a) the land's owner; and

(b) if the owner is not the occupier of the land—the occupier of the land.

404 Amending or requiring amendment of site management plan

(1) If the administering authority considers it necessary or desirable, the administering authority may—

(a) prepare an amendment of a site management plan; or

(b) require a draft amendment of a site management plan to be prepared and given to the administering authority for approval by—

(i) the person who released the contaminant contaminating the land if the person is known and can be located; or

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(ii) the relevant local government; or

(iii) the land's owner.

(2) Subdivisions 2 to 5 apply for subsection (1)—

(a) as if a reference in those subdivisions to a site management plan or draft site management plan were a reference to an amendment, or a draft amendment, of a site management plan; and

(b) with any other necessary changes.

Division 4 Miscellaneous provisions

405 Registrar of titles to maintain records about contaminated land

(1) This section applies if the administering authority gives the registrar of titles written notice under section 379, 379G or 386.

(2) The registrar of titles must maintain records that show particulars of the land stated in the notice are recorded in the contaminated land register.

(3) The registrar of titles must maintain the records in a way that a search of the register maintained by the registrar under any Act relating to the land will show that particulars of the land are recorded in the contaminated land register.

(4) The registrar of titles must, on receiving the notice—

(a) if the notice is about the removal of land from the contaminated land register—remove the particulars of the land from the registrar's records; or

(b) if the notice is about a change to a record about land in the contaminated land register—make the appropriate change to the registrar's records.

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406 Local government must not allow contravention of site management plan

A local government must not, under an approval or other authority granted under the Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land the details of which are recorded in a relevant land register.

407 Owner to give notice to occupant or proposed occupant

(1) This section applies if particulars of land are recorded in the contaminated land register.

(2) If a lease is in effect in relation to the land when the particulars are recorded, the owner must, within 20 business days after the particulars are recorded, give the lessee notice that particulars of the land have been recorded in the register.

Maximum penalty—50 penalty units.

(3) If, after the particulars are recorded, the land's owner proposes to enter into a lease with another person, the owner must give notice about the recording of the particulars to the person before entering into the lease.

Maximum penalty—50 penalty units.

(4) If the owner does not give notice as required under subsection (2) or (3), the lessee or other person may terminate the lease by written notice given to the owner within 10 days after the person becomes aware of the recording of the particulars.

(5) Subsection (4) applies despite anything to the contrary in the lease.

(6) In this section—

lease means an agreement between the land's owner and another person about occupancy of the land.

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408 Owner to give notice to proposed purchaser

(1) This section applies to the owner of land if—

(a) particulars of the land are recorded in a relevant land register; or

(b) the land is the subject of—

(i) a show cause notice under section 375; or

(ii) an environmental evaluation that includes a requirement to conduct or commission a site investigation; or

(iii) an environmental enforcement order issued under section 362(2) that includes a requirement to provide a validation report; or

(iv) a notice under section 394; or

(v) a notice under section 401; or

(c) the land is the subject of an order under section 458.

(2) The owner must, before agreeing to dispose of the land to someone else (the ***buyer***), give written notice to the buyer stating—

(a) if subsection (1)(a) applies—that the particulars of the land have been recorded in a relevant land register and, if details of a site management plan for the land are recorded in the register, details of the plan; or

(b) if subsection (1)(b) applies—that the owner has been given a notice mentioned in the subsection and particulars of the notice; or

(c) if subsection (1)(c) applies—that the land is the subject of the order and particulars of the order.

Maximum penalty—50 penalty units.

(3) If the owner does not comply with subsection (2), the buyer may rescind the agreement by giving the owner written notice before whichever of the following happens first—

(a) the completion of the agreement;

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(b) possession under the agreement.

(4) When the buyer rescinds the agreement under subsection (3)—

(a) a person who has been paid an amount by the buyer under the agreement must refund the amount to the buyer; and

(b) the buyer must return to the owner any documents about the disposal, other than the buyer's copy of the agreement.

(5) However, if the owner does not comply with subsection (2), the owner may give the written notice after agreeing to dispose of the land if the notice also states—

(a) the matters mentioned in subsections (3) and (4); and

(b) that the buyer may act within 21 business days after receiving the notice.

(6) If the buyer does not rescind the agreement within 21 business days after receiving the notice, the buyer is taken to have waived their right to rescind the agreement.

(7) Subsections (3) to (6) apply despite anything to the contrary in the agreement.

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Chapter 8 General environmental offences

Part 1 Offences relating to environmentally relevant activities

Division 1 Offences

426 Environmental authority required for particular environmentally relevant activities

(1) A person must not carry out an environmentally relevant activity unless the person holds, or is acting under, an environmental authority for the activity.

Maximum penalty—4,500 penalty units.

(2) Subsection (1) does not apply to a person carrying out—

(a) an agricultural ERA that is not a prescribed ERA; or

(b) a small scale mining activity; or

(c) a geothermal activity that, under the Geothermal Act, is—

(i) geothermal exploration for exempt heat pump production or to evaluate the feasibility of exempt heat pump production; or

(ii) exempt heat pump production; or

(iii) other geothermal production that, under the Geothermal Act, is not of a large-scale; or

(d) a remediation activity under the *Petroleum and Gas (Production and Safety) Act 2004*, section 294B.

(3) Also, subsection (1) does not apply to the Coordinator-General, or another person acting on behalf of

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the Coordinator-General, in performing the functions or exercising the powers of the Coordinator-General under the State Development Act.

Division 2 Exemptions

429 Special provisions for interstate transporters of controlled waste

(1) If a person is carrying out the interstate transportation of controlled waste, section 426 does not apply to the person if—

(a) the person holds, or is acting under, an interstate licence; and

(b) the licence authorises the transportation; and

(c) the conditions of the licence are, to the extent they are relevant to the transportation, complied with; and

(d) a consignment authorisation or number for the transportation has been issued under the law of the State into which the waste is to be transported; and

Note—

For transportation into Queensland, see the *Environmental Protection Regulation 2019*, section 93.

(e) the following documents, or copies of the following documents, are carried in the vehicle transporting the waste while the waste is being transported in Queensland—

(i) the interstate licence;

(ii) the consignment authorisation or a document containing the consignment number.

(2) However, while the waste is being transported in Queensland, this Act applies, with necessary changes, to the person and the transportation as if—

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(a) a reference in this Act to an environmental authority includes a reference to the interstate licence and any conditions of the licence; and

(b) the interstate licence and the consignment authorisation or document containing the consignment number are documents required to be held or kept under this Act; and

(c) the transportation were an environmentally relevant activity to which the licence relates; and

(d) the vehicle is a place to which the licence relates.

(3) In this section—

controlled waste has the meaning given in the controlled waste NEPM.

controlled waste NEPM means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure, made by the National Environment Protection Council under the *National Environment Protection Council Act 1994* (Cwlth).

interstate licence means an authority, instrument, licence or permit, however called, that is similar to an environmental authority issued under a corresponding law.

interstate transportation, of controlled waste, means the transportation of controlled waste from—

(a) a place in Queensland to a place in another State; or

(b) a place in another State to a place in Queensland; or

(c) a place in another State through Queensland to a place in another State.

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Part 2 Offences relating to environmental requirements

Division 1 Environmental authorities

430 Contravention of condition of environmental authority

(1) This section applies to a person who is the holder of, or is acting under, an environmental authority.

(2) The person must not wilfully contravene a condition of the authority.

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

(3) The person must not contravene a condition of the authority.

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).

431 Environmental authority holder responsible for ensuring conditions complied with

(1) The holder of an environmental authority must ensure everyone acting under the authority complies with the conditions of the authority.

(2) If another person acting under the authority commits an offence against section 430, 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 430(2) or (3) for the contravention of the conditions.

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(3) Evidence that the other person has been convicted of an offence against section 430 while acting under the authority is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions.

(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; 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.

Division 1A PRC plans

431A PRCP schedule required for particular environmental authorities

The holder of an environmental authority issued for a site-specific application for a mining activity relating to a mining lease must also hold a PRCP schedule to which the authority relates.

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.

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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 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.

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Division 2 Transitional environmental programs

432 Offence not to comply with program

(1) The holder of a transitional environmental program, or a person acting under a transitional environmental program, must not wilfully contravene the program.

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

(2) The holder of a transitional environmental program, or a person acting under a transitional environmental program, must not contravene the program.

Maximum penalty—4,500 penalty units.

(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

(4) A reference in this section to contravening a transitional environmental program includes a reference to contravening a condition of the program.

433 Holder responsible for ensuring program complied with

(1) The holder of a transitional environmental program must ensure everyone acting under the program complies with the program.

(2) If another person acting under the program commits an offence against section 432, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the program.

Maximum penalty—the penalty under section 432(1) or (2) for the contravention of the program.

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(3) Evidence that the other person has been convicted of an offence against section 432 while acting under the program is evidence that the holder committed the offence of failing to ensure the other person complies with the program.

(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 program; 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.

Division 3 Site management plans

434 Contravention of plan

(1) A person must not wilfully contravene a site management plan.

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

(2) A person must not contravene a site management plan.

Maximum penalty—4,500 penalty units.

(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

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Part 2A Offences relating to conditions

435A Offence to contravene prescribed conditions for particular activities

(1) This section applies if—

(a) a person is carrying out a small scale mining activity; and

(b) prescribed conditions are in effect for the carrying out of the activity.

(2) The person must not wilfully contravene the prescribed conditions.

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

(3) The person must not contravene the prescribed conditions.

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).

Part 3 Offences relating to environmental harm

437 Offences of causing serious environmental harm

(1) A person must not wilfully and unlawfully cause serious environmental harm.

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

(2) A person must not unlawfully cause serious environmental harm.

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Maximum penalty—4,500 penalty units.

(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

438 Offences of causing material environmental harm

(1) A person must not wilfully and unlawfully cause material environmental harm.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

(2) A person must not unlawfully cause material environmental harm.

Maximum penalty—1,665 penalty units.

(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

439 Court may find defendant guilty of causing material environmental harm if charged with causing serious environmental harm

In a proceeding for an offence against section 437, 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 section 438(1) or (2), the court may find the defendant guilty of the offence against section 438(1) or (2).

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440 Offence of causing environmental nuisance

(1) A person must not wilfully and unlawfully cause an environmental nuisance.

Maximum penalty—1,665 penalty units.

(2) A person must not unlawfully cause an environmental nuisance.

Maximum penalty—600 penalty units.

(3) This section does not apply to an environmental nuisance mentioned in schedule 1, part 1.

(4) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

Note—

See section 493A (When environmental harm or related acts are unlawful).

440A Court may find defendant guilty of causing environmental nuisance if charged with causing serious or material environmental harm

In a proceeding for an offence against section 437 or 438, 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 section 440(1) or (2), the court may find the defendant guilty of the offence against section 440(1) or (2).

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Part 3B Offences relating to noise standards

Division 1 Preliminary

440K Definitions for pt 3B

In this part—

affected building, for noise—

(a) means a building at which the noise can be heard; and

(b) if the noise is made from a building, includes that building.

at, a place or premises, includes in or on the place or premises.

audible noise see section 440L.

background level means the background A-weighted sound pressure level under the prescribed standard measured as $L_{A90, T}$.

building work means any of the following—

(a) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building;

(b) providing air conditioning, drainage, heating, lighting, sewerage, ventilation or water supply for a building;

(c) excavating or filling—

(i) for, or that is incidental to, an activity mentioned in paragraph (a) or (b); or

(ii) that may adversely affect the stability of a building, whether the excavating or filling is happening on the land on which the building is situated or on adjoining land;

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(d) supporting (whether vertically or laterally) land for an activity mentioned in paragraph (a) or (b);

(e) installing or removing scaffolding.

educational institution means—

(a) a State educational institution under the *Education (General Provisions) Act 2006*; or

(b) an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*; or

(d) TAFE Queensland under the *TAFE Queensland Act 2013*; or

(e) a university.

indoor venue means a building used for musical, sporting or other entertainment or for cultural or religious activities, but does not include—

(a) licensed premises; or

(b) a building being used for an open-air event.

Examples of uses of a building for definition indoor venue—

tenpin bowling, concerts, indoor cricket, religious worship, squash

$L_{A90,\ T}$ means the A-weighted sound pressure level obtained using time weighting 'F' that is exceeded for 90% of the measuring period (T).

licensed premises means licensed premises under the *Liquor Act 1992*.

noise standard means a local law or section in division 3 that applies as a noise standard under section 440O(3) or 440P.

nominated section see section 440O(2)(b).

open-air event means an open-air competition, concert, display, race or other activity.

peak particle velocity means the maximum instantaneous particle velocity at a point during a given time interval measured in millimetres per second.

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Notes—

1 Peak particle velocity is a measure of ground vibration magnitude.

2 Peak particle velocity may be taken as the vector sum of the 3 component particle velocities in mutually perpendicular directions.

power boat means a power-driven watercraft and includes a jet ski or other power-driven personal watercraft.

Z Peak means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating.

Z Peak Hold means the peak time-weighting characteristic of a sound level meter specified in the prescribed standard set to the linear Z frequency rating and fitted with a hold feature.

440L Meaning of *audible noise*

(1) ***Audible noise*** means noise that can be clearly heard by an individual who is an occupier of an affected building.

(2) For subsection (1), an individual is taken to be able to clearly hear a noise if he or she can hear the noise from the part of the building occupied by the individual that is most exposed to the noise.

440M Reference to making a noise

A reference in this part to making a noise includes causing a noise to be made.

440N Noise levels measured at an affected building

A reference in this part to a noise of a level that is a stated number of decibels, or a stated number of decibels above the background level, is a reference to a noise of that level when measured at an affected building.

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Division 2 Application of noise standards

440O Local law may prescribe noise standards

(1) This section applies in relation to a local government area if the local government for the local government area is the administering authority for this part.

(2) A provision of a local law made by the local government may prescribe a noise standard by—

(a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made); and

(b) stating a section in division 3 (the ***nominated section***) for which the local law provision is prescribing a noise standard.

(3) If a provision of a local law is in force for which a section in division 3 is the nominated section, the local law provision applies as a noise standard.

440P Default noise standards under div 3

A section in division 3 applies as a noise standard in relation to a local government area if and only if—

(a) the local government for the local government area is not the administering authority for this part; or

(b) the local government for the local government area is the administering authority for this part but there is no provision of a local law in force for which the section is the nominated section.

440Q Offence of contravening a noise standard

(1) A person must not unlawfully contravene a noise standard.

Maximum penalty—

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(a) if the contravention is done wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

Note—

See section 493A (When environmental harm or related acts are unlawful).

(2) A person does not contravene a noise standard by causing an environmental nuisance mentioned in schedule 1, part 1.

Division 3 Default noise standards

440R Building work

(1) A person must not carry out building work in a way that makes an audible noise—

(a) on a business day or Saturday, before 6.30a.m. or after 6.30p.m; or

(b) on any other day, at any time.

(2) The reference in subsection (1) to a person carrying out building work—

(a) includes a person carrying out building work under an owner-builder permit; and

(b) otherwise does not include a person carrying out building work at premises that are the person's principal place of residence.

440S Regulated devices

(1) This section applies to—

(a) a person carrying out an activity other than building work; and

(b) a person carrying out building work, at premises that are the person's principal place of residence, other than under an owner-builder permit.

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(2) A person must not operate a regulated device in a way that makes an audible noise—

(a) on a business day or Saturday, before 7.00a.m. or after 7.00p.m; or

(b) on any other day, before 8.00a.m. or after 7.00p.m.

(3) Subsection (2) does not apply to a person operating a grass-cutter or leaf-blower at a place that is a State-controlled road or a railway under an authority from the occupier of the place.

(4) Subsection (2)(a) does not apply to a person operating a regulated device at a manual arts facility at an educational institution between 7.00p.m. and 10.00p.m.

(5) In this section—

grass-cutter means an electrical or mechanical device a function of which is to cut grass.

Examples—

brush-cutter, edge cutter, lawnmower, ride-on mower, string trimmer

leaf-blower means an electrical or mechanical device a function of which is to blow leaves.

regulated device means any of the following—

(a) a compressor;

(b) a ducted vacuuming system;

(c) a generator;

(d) a grass-cutter;

(e) an impacting tool;

(f) a leaf-blower;

(g) a mulcher;

(h) an oxyacetylene burner;

(i) an electrical, mechanical or pneumatic power tool.

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Examples of a power tool—

chainsaw, drill, electric grinder or sander, electric welder, nail gun

440T Pumps

(1) This section applies to premises at or for which there is a pump.

(2) An occupier of the premises must not use, or permit the use of, the pump on any day—

(a) before 7a.m, if it makes an audible noise; or

(b) from 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or

(c) from 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or

(d) after 10p.m, if it makes an audible noise.

(3) Subsection (2)(a), (c) and (d) do not apply to a noise made at an educational institution, that is not more than 5dB(A) above the background level.

(4) In this section—

pump—

(a) means an electrical, mechanical or pneumatic pump; and

Examples—

liquid pump, air pump, heat pump

(b) includes a swimming pool pump and a spa blower.

440U Air-conditioning equipment

(1) This section applies to premises at or for which there is air-conditioning equipment.

(2) An occupier of the premises must not use, or permit the use of, the equipment on any day—

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(a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or

(b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or

(c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.

440V Refrigeration equipment

(1) This section applies to a person who is—

(a) an occupier of premises at or for which there is plant or equipment for refrigeration (***refrigeration equipment***); or

(b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.

(2) The person must not use, or permit the use of, the refrigeration equipment on any day—

(a) before 7a.m, if it makes a noise of more than 3dB(A) above the background level; or

(b) from 7a.m. to 10p.m, if it makes a noise of more than 5dB(A) above the background level; or

(c) after 10p.m, if it makes a noise of more than 3dB(A) above the background level.

(3) In this section—

vehicle includes a trailer.

440W Indoor venues

(1) An occupier of a building must not use, or permit the use of, the building as an indoor venue on any day—

(a) before 7a.m, if the use makes an audible noise; or

(b) from 7a.m. to 10p.m, if the use makes a noise of more than 5dB(A) above the background level; or

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(c) from 10p.m. to midnight, if the use makes a noise of more than 3dB(A) above the background level.

(2) However, subsection (1)(b) does not apply if—

(a) the building is, or is part of, an educational institution; and

(b) the use of the building as an indoor venue is organised by or for the educational institution for non-commercial purposes of the institution.

440X Open-air events

(1) An occupier of premises must not use, or permit the use of, the premises for an open-air event on any day—

(a) before 7a.m, if the use causes audible noise; or

(b) from 7a.m. to 10p.m, if the use causes noise of more than 70dB(A); or

(c) from 10p.m. to midnight, if the use causes noise of more than the lesser of the following—

(i) 50dB(A);

(ii) 10dB(A) above the background level.

(2) However, subsection (1) does not apply to licensed premises.

(3) Also, subsection (1)(b) does not apply if—

(a) the premises is, or is part of, an educational institution; and

(b) the use of the premises for an open-air event is organised by or for the educational institution for non-commercial purposes of the institution.

440Y Amplifier devices other than at indoor venue or open-air event

(1) This section applies to a person who operates an amplifier device other than at an indoor venue or open-air event.

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(2) The person must not operate the device in a way that makes audible noise—

(a) on a business day, before 7a.m. or after 10p.m; or

(b) on any other day, before 8a.m. or after 6p.m.

(3) At a time when the person may operate the device under subsection (2), the person must not operate the device in a way that makes noise of more than 10dB(A) above the background level.

(4) However, subsection (3) does not apply if the person is operating the device at an educational institution.

(5) In this section—

amplifier device means any of the following—

(a) a loudhailer;

(b) a megaphone;

(c) a public address system, other than for a railway;

(d) a remote telephone bell;

(e) a telephone repeater bell.

440Z Power boat sports in waterway

(1) A person must not use a power boat, or permit the use of a power boat, in a waterway for a power boat sport if the use makes audible noise for the same affected building for more than a continuous period of 2 minutes—

(a) on a business day or Saturday, before 7a.m. or after 7p.m; or

(b) on any other day, before 8a.m. or after 6.30p.m.

(2) In this section—

power boat sport means—

(a) a sport in which a person is towed by a line attached to a power boat, including, for example, a person water skiing or riding on a toboggan or tube; or

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(b) operating a jet ski or other power-driven personal watercraft, other than for fishing.

waterway means any of the following—

(a) a creek, river, stream or watercourse;

(b) an inlet of the sea into which a creek, river, stream or watercourse flows;

(c) a dam or weir.

440ZA Operating power boat engine at premises, jetty or pontoon

(1) A person must not operate, or permit the operation of, a power boat engine during a restricted period if—

(a) the engine is at premises and the operation makes audible noise; or

(b) the engine is a part of a boat that is at a jetty or pontoon and the operation makes audible noise for a continuous period of more than 5 minutes.

(2) In this section—

operate, a power boat engine, includes flushing the engine.

restricted period means—

(a) on a business day or Saturday, before 7a.m. or after 7p.m; or

(b) on any other day, before 8a.m. or after 6.30p.m.

440ZB Blasting

A person must not conduct blasting if—

(a) the airblast overpressure is more than 115dB Z Peak for 4 out of any 5 consecutive blasts; or

(b) the airblast overpressure is more than 120dB Z Peak for any blast; or

(c) the ground vibration is—

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(i) for vibrations of more than 35Hz—more than 25mm a second ground vibration, peak particle velocity; or

(ii) for vibrations of no more than 35Hz—more than 10mm a second ground vibration, peak particle velocity.

440ZC Outdoor shooting ranges

(1) A person must not operate, or permit the operation of, an outdoor shooting range, between 6a.m. and 6p.m. on any day, if the noise from the operation is more than—

(a) for a range that is normally used at least 5 days a week—95dB Z Peak Hold; or

(b) for a range that is normally used 4 days a week—100dB Z Peak Hold; or

(c) for a range that is normally used no more than 3 days a week—105dB Z Peak Hold.

(2) A person must not operate, or permit the operation of, an outdoor shooting range, between 6p.m. and 10p.m. on any day, if the noise from the operation is more than—

(a) for a range that is normally used at least 5 evenings a week—85dB Z Peak Hold; or

(b) for a range that is normally used 4 evenings a week—90dB Z Peak Hold; or

(c) for a range that is normally used no more than 3 evenings a week—95dB Z Peak Hold.

(3) For this section, noise from an outdoor shooting range is measured by working out the arithmetic average of the noise levels of whichever of the following happens first during the measurement period—

(a) at least 40 individual gunshots;

(b) at least 20 individual gunshots in any 30-minute period.

(4) In this section—

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used means used for an activity that includes shooting.

Examples of a range being used—

1 a shooting match conducted at the range

2 a defence personnel or police officer training session, that includes shooting, conducted at the range

Part 3C Offences relating to water contamination

440ZD Definitions for pt 3C

In this part—

deposits see section 440ZE.

earth means sand, soil, silt or mud.

prescribed water contaminant means—

(a) earth; or

(b) a contaminant prescribed under section 440ZF.

stormwater drainage means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

440ZE Meaning of *deposits* for pt 3C

(1) A person ***deposits*** a contaminant in waters or at another place if the person—

(a) drops, places or throws the contaminant in the waters or onto the place; or

(b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.

(2) A person ***deposits*** a contaminant at a place if—

(a) the person is an occupier of the place or the contaminant is under the person's control; and

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(b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and

(c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.

(3) A person ***deposits*** earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.

(4) A person ***deposits*** earth at a place if—

(a) the person is an occupier of the place; and

(b) someone deposits the earth at the place in a way mentioned in subsection (3); and

(c) the person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.

(5) A reference in subsections (2) to (4) to a place does not include waters.

(6) For subsections (1) to (4), none of the subsections limits any of the other subsections.

440ZF Prescribed water contaminants

(1) A regulation may prescribe a contaminant for this part.

(2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the contaminant is likely to cause environmental harm if it enters waters.

440ZG Depositing prescribed water contaminants in waters and related matters

A person must not—

(a) unlawfully deposit a prescribed water contaminant—

(i) in waters; or

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(ii) in a roadside gutter or stormwater drainage; or

(iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage; or

Example of a place for subparagraph (iii)—

a building site where soil may be washed into an adjacent roadside gutter

(b) unlawfully release stormwater run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

Maximum penalty—

(a) if the deposit or release is done wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

Note—

See section 493A (When environmental harm or related acts are unlawful).

Part 3E Offences relating to air contamination

440ZL Sale of solid fuel-burning equipment for use in residential premises and related matters

(1) A person must not sell solid fuel-burning equipment for use in residential premises unless—

(a) a certificate (a ***certificate of compliance***) has been issued by an accredited entity for the equipment stating—

(i) the entity has tested equipment that is the same as the equipment mentioned in the certificate under

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the test procedures set out in the prescribed standard; and

(ii) the equipment had a particle release factor not more than the allowable appliance release factor stated in the prescribed standard; and

(b) a plate or plates have been attached to the equipment under the prescribed standard.

(2) If an accredited entity issues a certificate of compliance for solid fuel-burning equipment, the manufacturer of the equipment must attach a plate or plates to the equipment under the prescribed standard before selling or otherwise transferring the equipment to another person.

(3) A person must not use, or transfer to another person, certified equipment if the person knows—

(a) a plate attached to the equipment under the prescribed standard has been defaced or removed, or the information on the plate has been altered; or

(b) there has been a material modification or alteration of—

(i) the structure, exhaust system or inlet air system of the equipment; or

(ii) a part of the equipment that is involved in the combustion process.

(4) However, subsection (3)(b) does not apply to modified or altered equipment—

(a) issued with a certificate of compliance by an accredited entity; or

(b) subject to a retesting exemption under the prescribed standard; or

(c) if the specifications of the replacement components are equivalent or superior to those used in the equipment for which a certificate of compliance issued by an accredited entity applies.

(5) A person who contravenes this section commits an offence.

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Maximum penalty—

(a) if the contravention is done wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

(6) The chief executive may, by gazette notice, declare an entity to be an accredited entity for this section if the chief executive is satisfied the entity is—

(a) a recognised service provider in the industry for solid fuel-burning equipment; and

(b) not a manufacturer or importer of solid fuel-burning equipment.

(7) In this section—

accredited entity means—

(a) the Australian Home Heating Association Inc; or

(b) an entity declared to be an accredited entity under subsection (6).

Note—

See also section 646 in relation to the Energy Information Centre in South Australia.

certified equipment means solid fuel-burning equipment to which a plate or plates have been attached under the prescribed standard.

solid fuel-burning equipment means fuel-burning equipment to which the prescribed standard applies.

440ZM Permitted concentration of sulfur in liquid fuel for use in stationary fuel-burning equipment

(1) A person must not knowingly use, in stationary fuel-burning equipment, liquid fuel containing more than the permitted concentration of sulfur.

Maximum penalty—600 penalty units.

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(2) A person (the ***distributor***) must not distribute or sell liquid fuel containing more than the permitted concentration of sulfur to another person (the ***purchaser***) unless—

(a) the purchaser is authorised under a relevant authority to use the liquid fuel; and

(b) the concentration of sulfur in the liquid fuel is not more than the amount stated in the relevant authority; and

(c) at the time of distributing or selling the liquid fuel, the distributor gives a report about the liquid fuel to the purchaser in the approved form.

Maximum penalty—

(a) if the offence is committed wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

(3) For this section, the concentration of sulfur in liquid fuel is to be worked out under a protocol.

(4) In this section—

permitted concentration of sulfur, for liquid fuel for use in stationary fuel-burning equipment, means a concentration of sulfur or a sulfur compound of not more than 3% by weight.

relevant authority means a thing mentioned in section 493A(2)(a) to (g).

stationary fuel-burning equipment—

(a) means a machine, furnace, boiler, oven, fireplace, chimney or other thing, the operation of which involves burning fuel or other combustible material; and

(b) does not include a vehicle.

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Part 3F Offences relating to fuel standards

Division 1 Preliminary

440ZN Purpose of pt 3F

The purpose of this part is to provide for quality standards for fuel to reduce emission of contaminants into Queensland's air environment.

440ZO Definitions for pt 3F

In this part—

ASTM means an ASTM International standard.

Commonwealth fuel standard determination means a determination in force under the *Fuel Quality Standards Act 2000* (Cwlth), section 21.

fuel means any of the following—

(a) petrol;

(b) automotive diesel;

(c) liquefied petroleum gas;

(d) liquefied natural gas;

(e) compressed natural gas;

(f) diesohol (that is, a blend primarily comprising diesel and an alcohol);

(g) biodiesel (that is, a diesel fuel obtained by esterification of oil derived from plants or animals);

(h) ethanol;

(i) any substance that is used as a substitute for a fuel mentioned in paragraphs (a) to (h);

(j) any substance that is supplied or represented as—

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(i) a fuel mentioned in paragraphs (a) to (h); or

(ii) a substitute substance under paragraph (i).

import means bring into the State (whether from another State or from outside Australia) for supply or for use in manufacturing fuel.

low volatility zone means the area consisting of the local government areas of the following local governments—

- Brisbane City Council
- Gold Coast City Council
- Ipswich City Council
- Lockyer Valley Regional Council
- Logan City Council
- Moreton Bay City Council
- Redland City Council
- Somerset Regional Council
- Sunshine Coast Regional Council
- Toowoomba Regional Council.

manufacture, for fuel, includes produce, blend, treat and add additives to the fuel.

Reid vapour pressure, of fuel, means the fuel's volatility at 37.8ºC measured using—

(a) the testing method under ASTM D323-99a; or

(b) another method that measures volatility at least as accurately as the method mentioned in paragraph (a).

summer month means any of the following periods—

- the period from 15 November to 14 December inclusive
- the period from 15 December to 14 January inclusive
- the period from 15 January to 14 February inclusive
- the period from 15 February to 15 March inclusive.

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summer period means the period from 15 November in a year to 15 March in the following year inclusive.

supply means supply (including re-supply) by way of sale, exchange or gift.

Division 2 Offences

440ZP Non-application of div 2

This division does not apply to a person to the extent provided by an exemption in force under division 3.

440ZQ Supply of fuel that does not comply with Commonwealth fuel standard determinations

(1) A person who manufactures or imports fuel must not supply the fuel in the State if the fuel does not comply with a Commonwealth fuel standard determination.

Maximum penalty—165 penalty units.

(2) This section does not apply to the supply of fuel for use in a motor vehicle used only for motor racing on a racing circuit or track under an environmental authority for the activity.

440ZR Permitted Reid vapour pressure—fuel with particular ethanol content

(1) This section applies in relation to fuel with an ethanol content of more than 9% but not more than 10% by volume.

(2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 76kPa.

Maximum penalty—165 penalty units.

(3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 74kPa.

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Maximum penalty—165 penalty units.

(4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid vapour pressure of less than 72kPa is taken to have a Reid vapour pressure of 72kPa.

440ZS Permitted Reid vapour pressure—other fuel

(1) This section applies in relation to fuel other than fuel to which section 440ZR applies.

(2) A person who manufactures or imports fuel must not supply the fuel in the low volatility zone in the summer period if the Reid vapour pressure of the fuel is more than 69kPa.

Maximum penalty—165 penalty units.

(3) A person who manufactures or imports fuel must ensure that, for each summer month, the volumetric monthly average Reid vapour pressure of the fuel supplied by the person in the low volatility zone is not more than 67kPa.

Maximum penalty—165 penalty units.

(4) For working out the volumetric monthly average Reid vapour pressure of fuel mentioned in subsection (3), fuel with a Reid vapour pressure of less than 65kPa is taken to have a Reid vapour pressure of 65kPa.

Division 3 Exemptions

440ZT Making applications

(1) A person may apply to the chief executive to exempt the person from complying with a provision of division 2.

(2) The application must contain the information necessary to enable the chief executive to decide the application.

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440ZU Request for further information

(1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or documents about the application by the reasonable date stated in the notice.

(2) The notice must be accompanied by, or include, an information notice about the chief executive's decision to make the request.

(3) The chief executive may refuse the application if the applicant does not give the chief executive the further information or documents by the stated day, without reasonable excuse.

440ZV Deciding applications

(1) The chief executive must consider the application and either give the exemption, with or without conditions, or refuse the application.

(2) The chief executive may give an exemption only if satisfied—

(a) the exemption is necessary—

(i) to prevent a significant disruption to the supply of fuel in the State or a part of the State; or

(ii) to allow the applicant to supply fuel in the State or a part of the State; and

(b) the applicant has no reasonable way of complying with the provision; and

(c) the exemption is in the public interest.

(3) Without limiting subsection (1), a condition may be about how the applicant must prevent or minimise environmental harm that may be caused if the exemption is given.

440ZW Giving exemptions

(1) If the chief executive decides to give the exemption, the chief executive must give the applicant a written notice stating—

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(a) the person to whom the exemption is given; and

(b) the provision from which the person is exempted; and

(c) the term for which the exemption is given; and

(d) any conditions on which the exemption is given.

(2) If the chief executive decides to impose conditions on the exemption, the notice must be accompanied by, or include, an information notice about the decision to impose the conditions.

(3) An exemption given on conditions operates only if the conditions are complied with.

440ZX Refusing applications

If the chief executive decides to refuse the application the chief executive must, within 7 days after making the decision, give the applicant an information notice about the decision.

Division 4 Record keeping

440ZY Record keeping requirements

(1) This section applies in relation to fuel supplied in the State, by a person who manufactures or imports the fuel, if—

(a) a Commonwealth fuel standard determination applies to the fuel; and

(b) the person is not required to keep a record for the supply of the fuel under the *Fuel Quality Standards Act 2000* (Cwlth), section 66.

(2) The person must keep the records relating to the fuel that are prescribed under a regulation.

Maximum penalty—50 penalty units.

(3) A requirement under subsection (2) to keep a record is a requirement to keep a record for 2 years after the supply of the fuel.

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Part 4 Other offences

442 Offence of releasing prescribed contaminant

(1) A person must not release, or cause to be released, a prescribed contaminant into the environment other than under an authorised person's emergency direction.

Maximum penalty—

(a) if the offence is committed wilfully—1,665 penalty units; or

(b) otherwise—600 penalty units.

(2) In this section—

prescribed contaminant means a contaminant prescribed by an environmental protection policy or a regulation for this section.

443 Offence to place contaminant where serious or material environmental harm may be caused

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm.

Maximum penalty—

(a) if the offence is committed wilfully—4,500 penalty units or 2 years imprisonment; or

(b) otherwise—1,655 penalty units.

443A Offence to place contaminant where environmental nuisance may be caused

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause environmental nuisance.

Maximum penalty—

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(a) if the offence is committed wilfully—1,655 penalty units; or

(b) otherwise—600 penalty units.

444 Offence of interfering with monitoring equipment

A person must not interfere with any monitoring equipment used under this Act or a development condition of a development approval.

Maximum penalty—165 penalty units.

Chapter 8A Rehabilitation commissioner

Part 1 Appointment

444A Appointment

(1) The Governor in Council may, on the recommendation of the Minister, appoint a rehabilitation commissioner.

(2) The Minister may recommend a person for appointment only if the Minister is satisfied the person is appropriately qualified to perform the functions of the rehabilitation commissioner.

(3) The rehabilitation commissioner is appointed under this Act and not the *Public Sector Act 2022*.

(4) The rehabilitation commissioner may be appointed on a full-time or part-time basis.

444B Term of appointment

(1) The rehabilitation commissioner holds office for the term decided by the Governor in Council.

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(2) However, the term can not be—

(a) less than 1 year; or

(b) more than 5 years.

(3) The rehabilitation commissioner may be reappointed.

444C Remuneration and conditions

(1) The rehabilitation commissioner is to be paid the remuneration and other allowances decided by the Governor in Council.

(2) The remuneration must not be reduced during the rehabilitation commissioner's term of office without the rehabilitation commissioner's written consent.

(3) The rehabilitation commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

444D Leave of absence

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

444E Vacancy in office

(1) The office of the rehabilitation commissioner becomes vacant if the rehabilitation commissioner—

(a) completes a term of office and is not reappointed; or

(b) resigns office by signed notice given to the Minister; or

(c) is convicted of an indictable offence; or

(d) is removed from office by the Governor in Council under section 444F(1).

(2) Also, if the rehabilitation commissioner is suspended by the Minister under section 444F(3), the office is vacant during the period of suspension.

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444F Removal from office

(1) The Governor in Council may, at any time, remove the rehabilitation commissioner from office on the recommendation of the Minister.

(2) The Minister may recommend the rehabilitation commissioner's removal from office only if the Minister is satisfied the rehabilitation commissioner—

(a) has been guilty of misconduct, including contravention of the *Integrity Act 2009*, section 72D; or

(b) is incapable of performing his or her duties; or

(c) has neglected his or her duties or performed them incompetently.

(3) The Minister may suspend the rehabilitation commissioner for up to 60 days by signed notice to the rehabilitation commissioner if—

(a) there is an allegation of misconduct against the rehabilitation commissioner; or

(b) the Minister is satisfied a matter has arisen in relation to the rehabilitation commissioner that may be grounds for removal from office under this section.

444G Acting rehabilitation commissioner

(1) The Minister may appoint an appropriately qualified person to act as rehabilitation commissioner—

(a) during a vacancy in the office; or

(b) during any period, or during all periods, when the rehabilitation commissioner is absent from duty or from the State or can not, for another reason, perform his or her duties.

(2) The acting rehabilitation commissioner is appointed under this Act and not the *Public Sector Act 2022*.

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444H Preservation of rights

(1) This section applies if a public service officer is appointed as the rehabilitation commissioner.

(2) The person is entitled to retain all accrued or accruing rights as if service as the rehabilitation commissioner were a continuation of service as a public service officer.

(3) At the end of the person's term of office or resignation as the rehabilitation commissioner, the person's service as the rehabilitation commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

Part 2 Functions and powers

444I Functions

The rehabilitation commissioner has the following functions—

(a) providing advice to the Minister on rehabilitation and management practices, outcomes and policies;

(b) developing technical and evidence-based reports on complex aspects related to the rehabilitation of land or best practice management of non-use management areas;

(c) if asked by the chief executive and the rehabilitation commissioner considers it appropriate—providing guidance on the interpretation of advice or reports prepared under paragraph (a) or (b);

(d) monitoring, and providing reports to the Minister on, rehabilitation performance and trends;

(e) consulting on, and raising awareness of, rehabilitation and management matters;

(f) chairing workshops and forums about technical, scientific or engagement matters;

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(g) the other functions given to the rehabilitation commissioner under this Act.

444J Powers

The rehabilitation commissioner has power to—

(a) enter into contracts or agreements; and

(b) appoint agents or attorneys; and

(c) engage consultants or contractors; and

(d) do anything else necessary or convenient to be done in the performance of the rehabilitation commissioner's functions.

Examples of things the rehabilitation commissioner has power to do under paragraph (d)—

- access information held by an administering authority
- ask an entity to give the rehabilitation commissioner access to information held by the entity

444K Publication of advice, reports and guidance

(1) The rehabilitation commissioner must publish on a Queensland Government website advice, reports and guidance prepared in the exercise of the functions mentioned in section 444I(a), (b), (c) or (d).

(2) Advice, reports and guidance mentioned in subsection (1) must be published in a way that does not disclose confidential information.

(3) In this section—

Queensland Government website means a website with a URL that contains 'qld.gov.au', other than the website of a local government.

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444L Delegation

(1) The rehabilitation commissioner may delegate the rehabilitation commissioner's functions under this Act, other than the functions under section 444I(a), (b), (c) or (d), to an appropriately qualified officer or employee whose services are made available under section 444M(1).

(2) In this section—

functions includes powers.

444M Staff services from government agency

(1) The rehabilitation commissioner may, with the agreement of the chief executive of a government agency, arrange for the services of officers or employees of the agency to be made available to the rehabilitation commissioner.

(2) An officer or employee whose services are made available under subsection (1)—

(a) continues to be an officer or employee of the government agency; and

(b) continues to be employed or otherwise engaged by the government agency on the same terms and conditions applying to the officer or employee immediately before the services were made available; and

(c) is subject to the direction of the rehabilitation commissioner only in relation to the services made available to the rehabilitation commissioner and for the performance of the rehabilitation commissioner's functions; and

(d) is not subject to the direction of the chief executive of the government agency in relation to the services made available to the rehabilitation commissioner and for the performance of the rehabilitation commissioner's functions.

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(3) Nothing in subsection (1) requires the chief executive of a government agency to enter into an arrangement mentioned in that subsection.

(4) In this section—

government agency means—

(a) a department or an administrative unit within a department; or

(b) a government owned corporation or a subsidiary of a government owned corporation; or

(c) an entity that is established under an Act and represents the State; or

(d) a local government.

444N Ministerial direction

(1) The Minister may give the rehabilitation commissioner a written direction (a ***ministerial direction***) about the performance of the rehabilitation commissioner's functions or the exercise of the rehabilitation commissioner's powers.

(2) However, the Minister may not give a ministerial direction about the content of any advice, report or guidance prepared by the rehabilitation commissioner.

(3) The rehabilitation commissioner must comply with a ministerial direction.

444O Annual report

(1) Within 4 months after the end of each financial year, the rehabilitation commissioner must give the Minister a report about the operations of the rehabilitation commissioner during the year.

(2) Without limiting subsection (1), the report must include details of the following during the financial year—

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(a) the performance of the rehabilitation commissioner's functions and the exercise of the rehabilitation commissioner's powers;

(b) the administration of this chapter;

(c) rehabilitation performance and trends;

(d) details of—

(i) any interest disclosed by the rehabilitation commissioner under the *Integrity Act 2009*, section 72D(1)(a); and

(ii) any action authorised by the Minister under the *Integrity Act 2009*, section 72D(1)(b);

(e) details of—

(i) each direction given by the Minister under section 444N; and

(ii) action taken by the rehabilitation commissioner because of the direction.

(3) The report must not be prepared in a way that discloses confidential information.

(4) The Minister must table a copy of the rehabilitation commissioner's report in the Legislative Assembly within 14 sitting days after receiving it.

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Chapter 9 Investigation and enforcement

Part 1 Administration generally

445 Appointment of authorised persons

(1) The chief executive may appoint any of the following persons to be an authorised person—

(a) an appropriately qualified public service officer;

(b) an employee of the department;

(c) a person included in a class of persons declared by regulation to be an approved class of persons for this section.

(2) If the administration and enforcement of a matter is devolved to a local government, the local government's chief executive officer may appoint an employee of the local government to be an authorised person.

(3) A person may be appointed to be an authorised person only if, in the opinion of the chief executive or local government's chief executive officer, the person has the necessary expertise or experience to be an authorised person.

446 Terms of appointment of authorised persons

(1) An authorised person holds office on the conditions stated in the instrument of appointment.

(2) An authorised person appointed under section 445(1)(c)—

(a) is appointed for the term stated in the instrument of appointment; and

(b) may resign by signed notice given to the chief executive.

(3) An authorised person ceases to hold office—

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(a) if the authorised person was appointed under section 445(1)(a)—if the authorised person ceases to be an appropriately qualified public service officer; or

(b) if the authorised person was appointed under section 445(1)(b)—if the authorised person ceases to be an employee of the department; or

(c) if the authorised person was appointed under section 445(1)(c)—if the authorised person ceases to be a member of the relevant class of persons; or

(d) if the authorised person was appointed under section 445(2)—if the authorised person ceases to be an employee of the local government.

447 Powers of authorised persons

(1) An authorised person has the powers given under this or another Act.

(2) Subsection (1) has effect subject to any limitations—

(a) stated in the authorised person's instrument of appointment; or

(b) prescribed by regulation.

(3) An authorised person appointed under section 445(2) may exercise powers only for the administration and enforcement of the matter the subject of a devolution to the local government of which the authorised person is an employee.

448 Issue of identity cards

(1) The administering executive must issue an identity card to each authorised person.

(2) The identity card must—

(a) contain a recent photograph of the authorised person; and

(b) be signed by the authorised person; and

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(c) identify the person as an authorised person; and

(d) include an expiry date.

(3) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

449 Production of identity card

(1) An authorised person may exercise a power in relation to someone else only if the authorised person—

(a) first produces his or her identity card for the person's inspection; or

(b) has his or her identity card displayed so that it is clearly visible to the person.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

450 Protection from liability

(1) In this section—

official means—

(a) an authorised person; or

(b) a person acting under the direction of an authorised person.

(2) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to—

(a) if the official is, or is acting under the direction of, an authorised person appointed by the chief executive officer of a local government—the local government; or

(b) if paragraph (a) does not apply—the State.

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(4) This section does not apply to an official if the official is a prescribed person under the *Public Sector Act 2022*, section 267.

451 Administering authority may require relevant information

(1) The administering authority may give a notice under this section to a person requiring the person to give it information relevant to the administration or enforcement of this Act.

(2) The notice may only be given to a person the authority suspects on reasonable grounds has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.

(3) The notice must—

(a) be in the approved form; and

(b) state the person to whom it is issued; and

(c) state the information required; and

(d) state the time within which the information is to be given to the authority; and

(e) state why the information is required; and

(f) state the review or appeal details; and

(g) be given to the person.

Part 2 Powers of authorised persons for places and vehicles

452 Entry of place—general

(1) An authorised person may enter a place if—

(a) its occupier consents to the entry and, if the entry is for exercising a power under chapter 7, part 5 or 8, its owner consents; or

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(b) it is a public place and the entry is made when the place is open to the public; or

(c) it is a place to which an environmental authority relates and the entry is made when—

(i) the activity to which the authority relates is being carried out; or

(ii) the place is open for conduct of business; or

(iii) the place is otherwise open for entry; or

(d) it is a place to which an environmental authority or PRCP schedule relates and an authorised person has given at least 5 business days written notice to the owner and occupier of the place stating—

(i) an authorised person intends to enter the place; and

(ii) the purpose of the entry; and

(iii) the day and time when the entry is to be made; or

(e) it is a place to which an agricultural ERA relates and the entry is made when—

(i) the activity is being carried out; or

(ii) the place is open for conduct of business; or

(iii) the place is otherwise open for entry; or

(f) it is a place to which a recognised accreditation program for an agricultural ERA relates and entry is made when—

(i) the place is open for conduct of business; or

(ii) the place is otherwise open for entry; or

(g) it is a place to which a prescribed condition for a small scale mining activity relates and the entry is made when—

(i) the activity to which the condition relates is being carried out; or

(ii) the place is open for conduct of business; or

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(iii) the place is otherwise open for entry; or

(h) it is a place to which an enforceable undertaking relates and the entry is made when—

(i) the activity to which the undertaking relates is being carried out; or

(ii) the place is open for conduct of business; or

(iii) the place is otherwise open for entry; or

(i) it is a place where an industry is conducted and the entry is made when—

(i) the place is open for conduct of business; or

(ii) is otherwise open for entry; or

(j) the entry is authorised by a warrant; or

(k) for land mentioned in chapter 7, part 5 or 8—the entry is authorised by an order under section 458; or

(l) the authorised person may enter the place under section 453, 454 or 455.

(2) An authorised person may enter a place if—

(a) it was a place to which an environmental authority or PRCP schedule related but the environmental authority or PRCP schedule no longer operates at the place by operation of a law other than this Act; and

(b) the place is not used for residential purposes; and

(c) an authorised person has given at least 2 business days written notice to the owner and occupier of the place stating—

(i) an authorised person intends to enter the place; and

(ii) the purpose of the entry; and

(iii) the day and time when the entry is to be made.

(3) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—

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(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised person considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(4) Unless the entry is made under the authority of a warrant or order, the entry must be made at a reasonable time.

453 Entry of land—search, test, sample etc. for release of contaminant

(1) This section applies if an authorised person believes on reasonable grounds that unlawful environmental harm has been caused by the release of a contaminant into the environment.

(2) The authorised person may enter land for the purpose of finding out or confirming the source of the release of the contaminant.

(3) The authorised person may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

(4) In this section—

land means a parcel of land other than any part on which a building is erected.

454 Entry of land—preliminary investigation

(1) This section applies if the administering authority believes on reasonable grounds land is contaminated land.

Example—

The administering authority may, as a result of investigations conducted in an area, become aware contaminated fill has been used in the area. In the circumstances, the administering authority may believe on reasonable grounds individual lots of land in the area are contaminated land.

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(2) An authorised person may, under this section, enter the land to conduct a preliminary investigation.

(3) A power under subsection (2) may be exercised only—

(a) with the agreement of the owner and occupier of the land; or

(b) if the administering authority has given at least 5 business days written notice to the owner and occupier.

(4) The notice must inform the owner and occupier—

(a) the administering authority believes the land is contaminated land; and

(b) an authorised person intends to enter the land; and

(c) the purpose of the entry; and

(d) the days and times when the entry is to be made.

(5) In exercising a power under subsection (2), the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(6) Nothing in this section authorises the authorised person to enter a building used for residential purposes.

455 Entry of land for access

(1) This section applies if—

(a) an authorised person may enter land (the ***primary land***) under section 452, 453 or 454; and

(b) it is necessary or desirable to cross other land (the ***access land***) to enter the primary land.

(2) The authorised person may enter the access land and take into or over it anything the person requires for exercising a power under section 460 in relation to the primary land—

(a) if the person obtains the consent of the occupier of the access land; or

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(b) if the person gives at least 5 business days written notice to the occupier before the entry; or

(c) without the consent of, or notice to, the occupier, if the person—

(i) believes on reasonable grounds there is an imminent risk of environmental harm being caused to or from the primary land; and

(ii) has told, or has made a reasonable attempt to tell, the occupier that the person is permitted to enter the access land under this paragraph.

(3) A notice under subsection (2)(b) must—

(a) describe the primary land and the access land; and

(b) state—

(i) that the authorised person intends to enter the access land for entry to the primary land; and

(ii) the day and time the access land will be entered; and

(iii) that an owner or occupier of the access land may claim compensation under section 487 for loss or damage caused by the entry to the access land.

(4) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

(5) Nothing in this section authorises the authorised person to enter a building used for residential purposes.

(6) This section does not limit section 452, 453 or 454.

456 Warrants

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) An application must be sworn and state the grounds on which the warrant is sought.

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(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of the commission of an offence against this Act; and

(b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

(a) that any authorised person or a stated authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and

(b) the evidence for which the warrant is issued; and

(c) the hours of the day when entry may be made; and

(d) the day (within 14 days after the warrant's issue) when the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

457 Warrants—applications made otherwise than in person

(1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

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(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

(a) the magistrate must—

(i) tell the authorised person what the terms of the warrant are; and

(ii) tell the authorised person the date and time the warrant was signed; and

(iii) record on the warrant the reasons for issuing the warrant; and

(b) the authorised person must write on a form of warrant (***warrant form***)—

(i) the magistrate's name; and

(ii) the date and time the magistrate signed the warrant; and

(iii) the warrant's terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if a warrant form was completed by the authorised person—the completed warrant form.

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(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

(a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence.

458 Order to enter land to conduct investigation or conduct work

(1) An authorised person may apply to a magistrate for an order to enter land—

(a) to carry out work on the land to—

(i) prevent or minimise environmental harm or rehabilitate or restore the land because of an activity carried out under an environmental authority, PRCP schedule, transitional environmental program or site management plan; or

(ii) remediate land managed under a site management plan; or

(iii) secure compliance with—

(A) an agricultural ERA standard, environmental authority, PRCP schedule, transitional environmental program, site management plan or any conditions of the authority, schedule, program or plan; or

(B) development conditions of a development approval; or

(C) a prescribed condition for carrying out a small scale mining activity; or

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(b) if the land is land to which an environmental enforcement order issued under section 362(2)(a) applies and the recipient of the order has failed to comply with the order—to take the action required under the order; or

(c) if the land is contaminated land—to conduct a site investigation of the land; or

(d) for land particulars of which are recorded in the contaminated land register—to conduct work to remediate the land.

(2) The administering authority must give written notice of the application to—

(a) the owner of the land; and

(b) if the owner is not the occupier of the land—the occupier; and

(c) if the application is for an order to carry out work mentioned in subsection (1)(a)—

(i) the environmental authority holder; or

(ii) the holder of the PRCP schedule; or

(iii) the holder of the transitional environmental program; and

(d) if the application is for an order to take the action required under an environmental enforcement order issued under section 362(2)(a)—the recipient of the order.

(3) The application for the order must be sworn and state the grounds on which it is made.

(4) The magistrate may refuse to consider the application until the person gives the magistrate all information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

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(5) The magistrate may make an order under this section only if the magistrate is satisfied—

(a) for an order to carry out work mentioned in subsection (1)(a), the entry sought is reasonable and necessary to carry out the work; or

(b) for an order to take the action required under an environmental enforcement order issued under section 362(2)(a), the entry sought is reasonable and necessary to take the action; or

(c) for an order to enter the land and carry out a site investigation—

(i) the land is listed in the environmental management register because it is contaminated land; and

(ii) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious environmental harm; and

(iii) a person, animal or another part of the environment may be exposed to the hazardous contaminant; and

(iv) the entry sought is reasonable and necessary to conduct a site investigation of the land; or

(d) for an order to enter and conduct work to remediate the land—the magistrate is satisfied the land is contaminated and the entry sought is reasonable and necessary to conduct work to remediate the land.

(6) The order must state—

(a) that an authorised person may, with necessary and reasonable help and force, enter the land and conduct the action, investigation or work to remediate the land; and

(b) the hours of the day when the entry may be made; and

(c) the day when the order ends.

(7) The magistrate must record the reasons for making the order.

(8) In this section—

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land includes a place to which an environmental enforcement order issued under section 362(2)(a) applies.

459 Entry or boarding of vehicles

(1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—

(a) the vehicle is being, or has been, used in the commission of an offence against this Act; or

(b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act; or

(c) the vehicle is of a type prescribed by regulation and is being used to transport waste of a type prescribed by regulation; or

(d) if the vehicle is a train—the train is being used to transport waste of a type prescribed by regulation.

(2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.

(3) To enable the vehicle to be entered or boarded, the authorised person may—

(a) act with necessary and reasonable help and force; and

(b) require the person in control of the vehicle to give reasonable help to the authorised person.

460 General powers for places and vehicles

(1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—

(a) search any part of the place or vehicle; or

(b) inspect, examine, test, measure, photograph or film the place or vehicle or anything in or on the place or vehicle; or

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(c) take samples of any contaminant, substance or thing in or on the place or vehicle; or

(d) record, measure, test or analyse the release of contaminants into the environment from the place or vehicle; or

(e) take extracts from, or make copies of, any documents in or on the place or vehicle; or

(f) take into or onto the place or vehicle any persons, equipment and materials the authorised person requires for the purpose of exercising any powers in relation to the place or vehicle; or

Example of equipment—

an unmanned aerial vehicle or other remotely controlled device capable of recording images, video, sounds or data

(g) install or maintain any equipment and materials in or on the place or vehicle the authorised person requires for the purpose of conducting a monitoring program for the release of contaminants into the environment from the place or vehicle; or

(h) require the occupier of the place, or any person in or on the place or vehicle, to give to the authorised person reasonable help for the exercise of the powers mentioned in paragraphs (a) to (g); or

(i) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—

(i) to take the vehicle to a stated reasonable place by a stated reasonable time; and

(ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;

to enable the authorised person to exercise the powers mentioned in paragraphs (a) to (g).

(2) However, subsection (1)(e) does not apply to an authorised person who enters land to conduct a preliminary investigation or site investigation.

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(3) If, for any reason, it is not practicable to make a requirement under subsection (1)(i) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

(4) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(i) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.

(5) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under subsection (1)(a) to (g) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.

(6) Subsection (5) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.

(7) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

(8) This section does not limit any power that an authorised person has apart from this section.

461 Power to seize evidence

(1) An authorised person who enters a place under this chapter with a warrant may seize the evidence for which the warrant was issued.

(2) An authorised person who enters a place under this chapter with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds that the thing is evidence of an offence against this Act.

(3) An authorised person who enters a place under this chapter with a warrant or with the occupier's consent may also seize

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another thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

(4) An authorised person who enters a place under this chapter other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

462 Power to secure seized thing

(1) Having seized a thing under this chapter, an authorised person may—

(a) leave the thing at the place where it was seized (the ***place of seizure***) and take reasonable action to restrict access to it; or

(b) move the thing from the place of seizure.

(2) For subsection (1)(a), the authorised person may, for example—

(a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or

(b) for equipment—make it inoperable; or

Example—

make the equipment inoperable by dismantling it or removing a component without which the equipment can not be used

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(c) require a person the authorised person reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an authorised person could do under subsection (1)(a).

463 Offence to contravene seizure requirement

A person must comply with a requirement made of the person under section 462(2)(c) unless the person has a reasonable excuse.

Maximum penalty—165 penalty units.

463A Offence to interfere

(1) If access to a seized thing is restricted under section 462, a person must not tamper with the thing or with anything used to restrict access to the thing without—

(a) an authorised person's approval; or

(b) a reasonable excuse.

Maximum penalty—165 penalty units.

(2) If access to a place is restricted under section 462, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

(a) an authorised person's approval; or

(b) a reasonable excuse.

Maximum penalty—165 penalty units.

463B Receipt and information notice for seized thing

(1) This section applies if an authorised person seizes anything under this chapter unless—

(a) the authorised person reasonably believes there is no-one apparently in possession of the thing or the thing has been abandoned; or

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(b) because of the condition, nature and value of the thing, it would be unreasonable to require the authorised person to comply with this section.

(2) The authorised person must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—

(a) a receipt for the thing that generally describes the thing and its condition; and

(b) an information notice about the decision to seize the thing.

(3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place where the thing is seized.

(4) The receipt and information notice may—

(a) be given in the same document; and

(b) relate to more than 1 seized thing.

(5) The authorised person may delay giving the receipt and information notice if the authorised person reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised person under this chapter.

(6) However, the delay may be only for so long as—

(a) the authorised person continues to have the reasonable suspicion; and

(b) the authorised person, or a person acting under the direction of the authorised person, remains in the vicinity of the place where the thing was seized to keep the thing secure or under observation.

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463C Access to seized thing

(1) Until a seized thing is forfeited or returned, the authorised person who seized the thing must allow an owner of the thing—

(a) to inspect it at any reasonable time and from time to time; and

(b) if it is a document—to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

(3) The inspection or copying must be allowed free of charge.

463D Return of seized thing

(1) This section applies if a seized thing is not subject to a forfeiture order under part 2A.

(2) As soon as the administering executive stops being satisfied there are reasonable grounds for retaining the thing, the administering executive must return the thing to its owner.

(3) If the thing is not returned to its owner within 3 months after it was seized, the owner may apply to the administering executive for its return.

(4) Within 30 days after receiving the application, the administering executive must—

(a) if the administering executive is satisfied there are reasonable grounds for retaining the thing and decides to retain the thing—give the owner an information notice about the decision, including the grounds for retaining the thing; or

(b) otherwise—return the thing to the owner.

(5) For this section, there are reasonable grounds for retaining a seized thing if—

(a) the thing is being, or is likely to be, examined; or

(b) the thing is needed, or may be needed, for the purposes of—

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(i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or

(ii) an appeal from a decision in a proceeding for an offence against this Act; or

(c) it is not lawful for the owner to possess the thing; or

(d) the administering executive believes it is necessary to continue to keep the thing to prevent its use in committing an offence.

(6) Subsection (5) does not limit the grounds that may be reasonable grounds for retaining the seized thing.

(7) Nothing in this section affects a lien or other security over the seized thing.

(8) In this section—

examine includes analyse, test, account for, measure, weigh, grade, gauge and identify.

Part 2A Forfeiture orders

463E Forfeiture order

(1) This section applies if a person is convicted of an offence against this Act.

(2) The court may make an order (a ***forfeiture order***), on its own initiative or on an application by the prosecution, for the forfeiture of a thing owned by the person to the relevant entity for the thing if the thing was the subject of, or used to commit, the offence.

(3) The court may make a forfeiture order for a thing—

(a) whether or not the thing has been seized under this chapter; and

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(b) if the thing has been seized—whether or not the thing has been returned to the person who owned the thing immediately before the seizure.

(4) In deciding whether to make a forfeiture order for a thing, the court—

(a) may require notice to be given to any person the court considers appropriate, including, for example, a person who may have any property in the thing; and

(b) must hear any submissions that a person claiming to have any property in the thing may wish to make; and

(c) must have regard to—

(i) any hardship that may reasonably be expected to be caused to a person by the order; and

(ii) the use that is ordinarily made, or was intended to be made, of the thing; and

(iii) the seriousness of the offence.

(5) If the court makes a forfeiture order for a thing, the thing becomes the property of the relevant entity for the thing and may be destroyed or disposed of as directed by the administering executive.

(6) The court may make any order it considers appropriate to enforce the forfeiture order.

(7) This section does not limit the court's powers under another law.

(8) In this section—

relevant entity, for a thing, means—

(a) if an authorised person seized the thing in the exercise of the power of seizure in the enforcement of a matter devolved to a local government—the local government; or

(b) otherwise—the State.

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Part 3 Other enforcement powers of authorised persons

464 Power to require name and address

(1) An authorised person may require a person to state the person's name and address if the authorised person—

(a) finds the person committing an offence against this Act; or

(b) finds the person in circumstances that lead, or has information that leads, the authorised person to suspect on reasonable grounds that the person has committed an offence against this Act.

(2) When making the requirement, the authorised person must warn the person that it is an offence against this Act to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The authorised person may require the person to give evidence of the correctness of the person's name or address if the authorised person suspects on reasonable grounds that the name or address given is false.

465 Power to require answers to questions

(1) This section applies if an authorised person suspects, on reasonable grounds, that—

(a) an offence against this Act has happened; and

(b) a person may be able to give information about the offence.

(2) The authorised person may—

(a) require the person to answer a question about the suspected offence; or

(b) by written notice given to the person, require the person to attend a stated reasonable place at a stated reasonable time, to answer questions about the suspected offence.

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(3) Also, the authorised person may, by written notice given to a corporation, require the corporation to nominate, within a stated reasonable period, an executive officer or employee of the corporation who is authorised by the corporation to answer a question under this section as the corporation's representative.

(4) On a person being nominated by the corporation under subsection (3), the authorised person may by written notice given to the nominated person, require the person to attend a stated reasonable place at a stated reasonable time, to answer questions about the suspected offence.

(5) An answer given by a person nominated by the corporation under subsection (3) binds the corporation.

(6) When making a requirement under subsection (2), (3) or (4), the authorised person must warn the person of whom the requirement is made that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

(7) A notice given under subsection (2)(b) or (4) must—

(a) identify the suspected offence; and

(b) state that the authorised person believes the person may be able to give information about the suspected offence; and

(c) include the warning required to be given under subsection (6).

466 Power to require production of documents

(1) An authorised person may require a person to produce to the authorised person for inspection a document required to be held or kept under—

(a) this Act; or

(b) a development condition of a development approval; or

(c) an agricultural ERA standard that applies to an agricultural ERA; or

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(d) a recognised accreditation program for an agricultural ERA.

(2) The authorised person may keep a produced document to take an extract from, or make a copy of, the document.

(3) The authorised person must return the document to the person as soon as practicable after taking the extract or making the copy.

Part 4 Emergency powers of authorised persons

466A Application of pt 4

This part applies if an authorised person is satisfied on reasonable grounds that an emergency exists.

466B What is an *emergency*

An ***emergency*** exists if—

(a) either—

(i) human health or safety is threatened; or

(ii) serious or material environmental harm has been or is likely to be caused; and

(b) urgent action is necessary to—

(i) protect the health or safety of persons; or

(ii) prevent or minimise the harm; or

(iii) rehabilitate or restore the environment because of the harm.

467 Authorised person may take or direct someone to take stated action

(1) To deal with the emergency, the authorised person may—

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(a) give a direction (an ***emergency direction***) to a person to take stated reasonable action within a stated reasonable time, including to release a contaminant into the environment; or

(b) take the action, or authorise another person to take the action.

(2) The authorised person may impose reasonable conditions on the direction.

(3) The direction may be given orally or by written notice.

(4) However, if the direction is given orally, the authorised person must, as soon as practicable, confirm the direction by written notice given to the person.

(5) If the authorised person decides to take the action, the authorised person may—

(a) without a warrant, enter any place (other than premises, or the part of premises, used only for residential purposes) and take the action; and

(b) in taking the action, exercise any of the powers under this chapter; and

(c) if, in taking the action, the authorised person finds a thing that may provide evidence of the commission of an offence against this Act—sections 461(1) and 462 to 463D apply to the thing as if the thing were the evidence or thing mentioned in the provisions and a warrant had been issued to the authorised person authorising the authorised person to seize it.

(6) The authorised person may exercise the powers mentioned in subsection (5) (***emergency powers***) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

(7) If a person or thing is obstructing or preventing entry to, or action being taken at, any place by an authorised person while exercising or attempting to exercise emergency powers, a police officer may, if asked by the authorised person, using the force that is necessary and reasonable—

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(a) remove the person or thing from the place; and

(b) take all reasonable measures to ensure the person or thing does not again obstruct or prevent the action being taken.

(8) In exercising or attempting to exercise emergency powers, an authorised person must take all reasonable steps to ensure the authorised person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

(9) This section does not limit any power an authorised person has apart from this section.

(10) If an authorised person authorises a person to take action under subsection (1)(b)—

(a) the person may exercise the powers mentioned in subsection (5)(a); and

(b) the authorised person must inform the person—

(i) of the action the person is authorised to take; and

(ii) of the person's powers under this section; and

(iii) in general terms, of the provisions of section 486; and

(c) subsections (6), (7) and (8) (so far as they relate to the power mentioned in subsection (5)(a)) apply to the person as if the person were the authorised person.

(11) A person who takes an action in compliance with an emergency direction does not commit an offence against this Act merely because the person takes the action.

Part 5 Offences

469 Failure of authorised person to return identity card

A person who ceases to be an authorised person must return the person's identity card to the administering executive who issued it as soon as practicable after ceasing to be an

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authorised person, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

470 Failure to give information to administering authority

(1) This section applies if a person is given a notice under section 451.

(2) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for the individual to fail to comply with the notice if complying with it might tend to incriminate the individual.

(4) The person does not commit an offence against this section if the information sought by the administering authority is not in fact relevant to the administration or enforcement of this Act.

471 Failure to comply with signal

(1) A person must obey a signal under section 459(2) to stop or not to move a vehicle, unless the person has a reasonable excuse for not obeying the signal.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person to fail to stop or to move the vehicle if—

(a) to obey immediately the signal would have endangered the person or another person; and

(b) the person obeys the signal as soon as it is practicable to obey the signal.

472 Failure to comply with requirements about vehicles

(1) In this section—

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required action for a vehicle, means—

(a) to bring the vehicle to a place; and

(b) to remain in control of the vehicle at a place for a reasonable time.

(2) A person who is required by an authorised person under section 459(3)(b) to give reasonable help to the authorised person to enable the entering or boarding of a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) A person who is required by an authorised person under section 460(1)(i) to take required action in relation to a vehicle must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

473 Failure to help authorised person—emergency

(1) This section applies if—

(a) in an emergency, an authorised person is exercising or attempting to exercise emergency powers; and

(b) for dealing with the emergency, the authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

(3) If the help required is the answering of a question or producing of a document by an individual (other than a document required to be held or kept by the individual under this Act or a development condition of a development approval), it is not a reasonable excuse for the individual to fail to answer the question, or produce the document, on the

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ground that complying with the requirement might tend to incriminate the individual.

(4) When making a requirement mentioned in subsection (3), the authorised person must inform the individual of the following—

(a) the individual is obliged to answer the question or produce the document despite the rule of law relating to privilege against self-incrimination;

(b) the individual may answer the question or produce the document subject to the objection that complying with the requirement might tend to incriminate the individual;

(c) if the individual makes an objection—the answer or the producing of the document may not be admitted in evidence against the individual in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against any of the following sections—

- section 480
- section 480A
- section 481.

(5) If, before giving the answer or producing the document, the individual makes an objection, the answer or producing of the document is not admissible in evidence against the individual in a prosecution for an offence against this Act, other than an offence (constituted by the giving of the answer or producing of the document) against any of the following sections—

- section 480
- section 480A
- section 481.

474 Failure to help authorised person—other cases

(1) This section applies if—

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(a) an authorised person requires a person under section 460(1)(h) to give reasonable help to the authorised person in relation to the exercise of a power; but

(b) section 473 does not apply.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) If the help required is the answering of a question or producing of a document (other than a document required to be held or kept by the individual under this Act or a development condition of a development approval), it is a reasonable excuse for the individual to fail to answer the question, or produce the document, if complying with the requirement might tend to incriminate the individual.

475 Failure to give name and address etc.

(1) A person who is required by an authorised person under section 464(1) to state the person's name or address must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(2) A person who is required by an authorised person under section 464(3) to give evidence of the correctness of a name or address must give the evidence, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) The person does not commit an offence against this section if—

(a) the authorised person required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

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476 Failure to attend, answer questions or nominate representative

(1) This section applies if—

(a) an authorised person requires a person under section 465 to—

(i) answer a question; or

(ii) if the person is a corporation—nominate an executive officer or employee of the corporation to answer a question as the corporation's representative; or

(iii) attend a stated reasonable place at a stated reasonable time, to answer questions; but

(b) section 473 does not apply.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) For subsection (2), it is not a reasonable excuse for an individual to fail to answer a question that complying with the requirement might tend to incriminate the individual.

(4) However, incriminating evidence for an individual who answers a question is not admissible in evidence against the individual in a civil or criminal proceeding, other than a proceeding for an offence for which the falsity or misleading nature of the answer is relevant.

(5) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

(6) In this section—

incriminating evidence, for an individual who answers a question, means evidence of, or directly or indirectly derived from, the answer that might tend to incriminate the individual.

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477 Failure to produce document

A person who is required under section 466 to produce a document must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

478 Failure to comply with authorised person's direction in emergency

A person to whom an emergency direction is given must—

(a) comply with the direction (including a condition of the direction), unless the person has a reasonable excuse for not complying with it; and

(b) take all precautions, so far as they are reasonably practicable, to prevent or minimise—

(i) environmental harm being caused; and

(ii) the risk of death or injury to humans and animals; and

(iii) loss or damage to property.

Maximum penalty—

(a) if the offence is committed wilfully—6,250 penalty units or 5 years imprisonment; or

(b) otherwise—4,500 penalty units.

480 False or misleading documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

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(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and

(b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

(b) the person knew it was misleading;

(c) the person ought reasonably to have known it was false;

(d) the person ought reasonably to have known it was misleading.

480A Incomplete documents

(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.

(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is incomplete; and

(b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.

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(4) It is enough for a complaint for an offence against subsection (2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.

482 Obstruction of authorised persons

(1) A person must not obstruct an authorised person in the exercise of a power under this chapter, unless the person has a reasonable excuse for obstructing the authorised person.

Maximum penalty—165 penalty units.

(2) In this section—

authorised person includes a person who is—

(a) acting under an authorised person's direction under section 363K; or

(b) authorised by an authorised person to take action under section 467(1)(b); or

(c) helping an authorised person under this chapter.

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483 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

484 Attempts to commit offences

(1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—half the maximum penalty for committing the offence.

(2) The Criminal Code, section 4, applies to subsection (1).

Part 5A Obtaining criminal history reports

484A Purpose of part

The purpose of this part is to help an authorised person to decide whether the authorised person's entry of a place or vehicle under this chapter would create an unacceptable level of risk to the authorised person's safety.

484B Definition for part

In this part—

criminal history, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

484C Chief executive may obtain criminal history report

(1) This section applies if an authorised person suspects, on reasonable grounds, a person (the ***relevant person***)—

(a) may be present at a place or vehicle when the authorised person enters the place or vehicle under this chapter; and

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(b) may create an unacceptable level of risk to the authorised person's safety.

(2) The chief executive may ask the commissioner of the police service for a written report about the criminal history of the relevant person that includes a brief description of the circumstances of a conviction mentioned in the criminal history.

(3) The commissioner of the police service must comply with the request.

(4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.

(5) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving conduct, behaviour or circumstances that suggest the relevant person's presence at the place or vehicle may endanger the authorised person's safety.

(6) The chief executive may give the authorised person information in the report about the offences identified under subsection (5).

(7) The chief executive must ensure the report, and any information in the report given to an authorised person in writing, is destroyed as soon as practicable after the report is no longer needed for the purpose for which it was requested.

Note—

See also the confidentiality requirements in chapter 12, part 4C.

Part 6 General

485 Consent to entry

(1) This section applies if an authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.

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(2) Before seeking the consent, the authorised person must inform the occupier—

(a) of the purpose of the entry; and

(b) that anything found and seized may be used in evidence in court; and

(c) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.

(4) The acknowledgement must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that anything found and seized may be used in evidence in court; and

(iii) that the occupier was not required to consent; and

(b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.

(5) If the occupier signs an acknowledgement of consent, the authorised person must immediately give a copy to the occupier.

486 Authorised person to give notice of seizure or damage

(1) This section applies if—

(a) an authorised person seizes or damages anything in the exercise of a power under this chapter; or

(b) a person acting under an authorised person's direction under section 363K damages anything in the exercise of a power under that section; or

(c) a person who is authorised by an authorised person under section 467(1)(b) to take action damages anything in the exercise of a power under section 467.

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(2) The authorised person must immediately give written notice of the particulars of the seizure or damage.

(3) The notice must be given to—

(a) if anything is seized—the person from whom the thing was seized; or

(b) if anything is damaged—the person who appears to the authorised person to be the owner of the thing.

(4) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—

(a) leave the notice at the place where the seizure or damage happened; and

(b) ensure it is left—

(i) in a reasonably secure way; and

(ii) in a conspicuous position.

486A Use of body-worn cameras

(1) It is lawful for an authorised person to use a body-worn camera to record images or sounds while the authorised person is exercising a power under this chapter.

(2) Use of a body-worn camera by an authorised person under subsection (1) includes use that is—

(a) inadvertent or unexpected; or

(b) incidental to use while exercising the authorised person's power.

(3) Subsection (1) does not affect an ability the authorised person has at common law or under another Act to record images or sounds.

(4) To remove any doubt, it is declared that subsection (1) is a provision authorising the use by an authorised person of a listening device, for the purposes of the *Invasion of Privacy Act 1971*, section 43(2)(d).

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487 Compensation

(1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter, including, for example, in complying with a requirement made of the person under this chapter.

(2) Subsection (1) does not apply to a prescribed person for a contamination incident in relation to the exercise of a power relating to the incident.

(3) The compensation must be claimed from—

(a) if the power or requirement that gives rise to the claim was exercised or made by an authorised person appointed by the chief executive officer of a local government, or a person authorised by such an authorised person under section 458 or 467(1)(b) to take action—the local government; or

(b) if paragraph (a) does not apply—the State.

(4) Payment of compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(5) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

488 Administering authority to reimburse costs and expenses incurred

(1) If a person incurs costs and expenses in complying with a direction under section 467(1)(a), the administering authority must reimburse the person's reasonable costs and expenses.

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(2) Subsection (1) does not apply to the person who caused or allowed the relevant emergency to happen or, in the case of a contamination incident, a prescribed person for the incident.

489 Costs of investigation or remediation to be paid by recipient

(1) The amount properly and reasonably incurred by the administering authority in conducting a site investigation, or remediating land, is a debt payable to the administering authority by the recipient of the notice to conduct or commission the investigation or remediate the land.

(2) If more than 1 person failed to perform the work, the amount incurred is payable by the persons jointly and severally.

(3) However, subsection (1) does not apply if the requirement for the recipient to conduct or commission the investigation, or carry out the remediation has been waived by the administering authority.

Chapter 10 Legal proceedings

Part 1 Evidence

490 Evidentiary provisions

(1) This section applies to a proceeding under or in relation to this Act.

(2) Unless a party, by reasonable notice, requires proof of—

(a) the appointment of an authorised person under this Act; or

(b) the authority of an authorised person to do an act under this Act;

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the appointment or authority must be presumed.

(3) A signature purporting to be the signature of the administering executive or an authorised person is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the Minister stating that a stated person is or was the administering authority or administering executive at a time, or during a stated period, is evidence of the matter stated in the certificate.

(5) A certificate purporting to be signed by the administering executive stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of a document issued, given, received or kept by the administering authority under this Act;

(b) on a stated day, or during a stated period, a stated person was or was not the holder of an environmental requirement, permit or other authority issued or given under this Act;

(c) an environmental requirement or other authority or permit issued or given under this Act—

(i) was or was not issued or given for a stated term; or

(ii) was or was not in force on a stated day or during a stated period; or

(iii) was or was not subject to a stated condition;

(d) on a stated day, an environmental authority or registration was suspended for a stated period or cancelled;

(e) on a stated day, a stated person was given a stated notice, direction, or order under this Act;

(f) a stated document is a copy of a part of, or an extract from, a register kept under this Act;

(g) a stated amount is payable under this Act by a stated person and has not been paid;

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(h) that a stated substance is a contaminant or an ozone depleting substance;

(i) that a stated method of storage, preservation, handling or transportation of a sample taken under this Act has not materially affected the attributes of the sample;

(j) another matter prescribed by regulation.

(6) A map, chart or plan is evidence of the matters stated or shown in the map, chart or plan if—

(a) a certificate is produced purporting to be signed by the administering executive stating that the map, chart or plan was made by an authorised person in the discharge of the authorised person's functions under this Act; and

(b) there is no evidence to the contrary.

(7) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

(8) A certificate purporting to be signed by an appropriately qualified person (the ***analyst***) and stating—

(a) the analyst received from a stated person the sample mentioned in the certificate; and

(b) the analyst analysed the sample on a stated day and at a stated place; and

(c) the results of the analysis;

is evidence of the matter stated in the certificate.

(9) Any instrument, equipment or installation prescribed by regulation that is used by an authorised person or analyst in accordance with the conditions (if any) prescribed by the regulation is taken to be accurate and precise in the absence of evidence to the contrary.

(10) In a proceeding in which the administering authority applies to recover the costs and expenses incurred by it, a certificate by the administering executive stating that stated costs and expenses were incurred and the way and purpose for which they were incurred is evidence of the matters stated.

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491 Special evidentiary provision—particular emissions

(1) This section applies in relation to—

(a) a proceeding, whether criminal or civil, relating to an offence against section 430 in which it is claimed the defendant, by the making of an emission causing environmental nuisance, has contravened a relevant condition of an environmental authority; or

(b) a proceeding, whether criminal or civil, relating to an offence against section 440 or 440Q in which it is claimed the defendant caused environmental nuisance or contravened a noise standard by an emission made from a person, place or thing (the ***alleged source***).

(2) An authorised person may give evidence, without any need to call further opinion evidence, that the authorised person formed the opinion based on the authorised person's own senses that—

(a) either—

(i) for an offence against section 430—the level, nature or extent of the emission was an unreasonable interference with an environmental value giving rise to a contravention of the relevant condition of the environmental authority; or

(ii) for an offence against section 440 or 440Q—the emission was made from the alleged source and travelled to another place; and

(b) for an offence against section 440—the level, nature or extent of the emission within the other place was an unreasonable interference with an environmental value.

(3) Evidence may be given under subsection (2) whether or not another emission was made to the other place from a person, place or thing other than the alleged source.

(4) In this section—

emission means an emission of aerosols, fumes, light, noise, odour, particles or smoke.

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relevant condition, of an environmental authority, means a condition that—

(a) states the holder of the authority must not cause environmental nuisance or otherwise make an emission that causes, or is likely to cause, environmental nuisance; but

(b) does not require an indicator of the quality or quantity of an emission, or the impact of an emission on the environment, to be measured to establish the causation of environmental nuisance.

491A Further special evidentiary provisions for noise

(1) This section applies if, in a proceeding, whether criminal or civil, relating to an offence against this Act, it is claimed audible noise was made.

(2) If it is claimed the noise was made from a particular person, place or thing (the ***alleged source***)—

(a) an individual (the ***occupier***) who was, when the noise was made (the ***relevant time***), an occupier of a building may give evidence that—

(i) the occupier could, at the relevant time, hear the noise at the building; and

(ii) the occupier formed the opinion, based on the occupier's own senses, that the noise was made from the alleged source and travelled to the building; and

(b) an authorised person who, at the relevant time, was present at the building with the occupier and could hear the noise at the building may give evidence—

(i) that the authorised person could, at the relevant time, hear the noise at the building; and

(ii) that the authorised person formed the opinion, based on the person's own senses, that the noise

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was made from the alleged source and travelled to the building.

(3) Evidence may be given under subsection (2)(b)—

(a) without any need to call the occupier; and

(b) whether or not other audible noise was made to the building from a person, place or thing other than the alleged source.

(4) Opinion evidence mentioned in this section may be given without any need to call further opinion evidence.

(5) Evidence mentioned in this section may be given without any requirement for the noise to have been measured.

(6) If the noise is established as audible noise, the rate of its audibility is not required to be established.

(7) The noise may be measured in a way prescribed under a regulation.

492 Responsibility for acts or omissions of representatives

(1) If, in a proceeding for an offence against this Act, it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act or omission was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(2) An act or omission done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been done or omitted to be done also by the person, unless the person proves the person took all reasonable steps to prevent the acts or omissions.

(3) If—

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(a) an individual is convicted of an offence against this Act; and

(b) the individual would not have been convicted of the offence if subsections (1) and (2) had not been enacted;

the individual is not liable to be punished by imprisonment for the offence.

(4) In this section—

representative, of a person, means—

(a) if the person is a corporation—

(i) an executive officer, employee or agent of the corporation; and

(ii) if, under the Corporations Act, the corporation (the ***parent corporation***) controls another corporation or another corporation is a subsidiary of the parent corporation—

(A) the controlled corporation or the subsidiary corporation; and

(B) an executive officer, employee or agent of the controlled corporation or the subsidiary corporation; or

(b) if the person is an individual—an employee or agent of the individual.

Part 2 Executive officer liability

493 Executive officers must ensure corporation complies with Act

(1) The executive officers of a corporation must ensure that the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the executive officers of the corporation also

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commits an offence, namely, the offence of failing to ensure the corporation complies with this Act.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.

(4) However, it is a defence for an executive officer to prove—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer took all reasonable steps to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

(5) Subsection (6) applies if the act or omission of a corporation that causes an offence to be committed happens earlier than the time of the commission of the offence.

Example—

An act is done by a corporation in January 2023. The act results in serious environmental harm being caused in January 2024, in contravention of section 437(1).

(6) A reference in this section to an executive officer of the corporation includes a reference to an executive officer who—

(a) is not in office when the offence is committed; but

(b) was in office when the act or omission happened.

Part 2A Unlawfulness of particular acts

493A When environmental harm or related acts are unlawful

(1) This section applies in relation to any of the following acts (***relevant acts***)—

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(a) an act that causes serious or material environmental harm or an environmental nuisance;

(b) an act that contravenes a noise standard;

(c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

Note—

See chapter 8, part 3 (Offences relating to environmental harm), section 440Q (Offence of contravening a noise standard) and section 440ZG (Depositing prescribed water contaminants in waters and related matters).

(2) A relevant act is unlawful unless it is authorised to be done under—

(a) an environmental protection policy; or

(b) a transitional environmental program; or

(c) an environmental enforcement order issued under section 362(1); or

(d) an environmental authority or PRCP schedule; or

(e) a development condition of a development approval; or

(f) a prescribed condition for a small scale mining activity; or

(g) an emergency direction; or

(h) an authorisation under the *Petroleum and Gas (Production and Safety) Act 2004*, section 294B and the authorisation relates to a bore or well mentioned in section 294B(1)(a) or (c) of that Act.

(3) However, it is a defence to a charge of unlawfully doing a relevant act to prove—

(a) the relevant act was done while carrying out an activity that is lawful apart from this Act; and

(b) the defendant complied with the general environmental duty.

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Note—

However, see also section 319A in relation to an act done while carrying out an activity involving a relevant industrial chemical.

(4) The defendant is taken to have complied with the general environmental duty if the defendant proves—

(a) an agricultural ERA standard applied to the doing of the relevant act; and

(b) to the extent it is relevant, the defendant complied with the standard.

(5) The defendant is also taken to have complied with the general environmental duty if the defendant proves—

(a) a code of practice applied to the doing of the relevant act; and

(b) to the extent it is relevant, the defendant complied with the code; and

(c) no agricultural ERA standard applied to the doing of the relevant act.

(6) A reference in this section to an act includes an omission and a reference to doing an act includes making an omission.

Note—

See also section 508 for circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

Part 3 Legal proceedings

494 Indictable and summary offences

(1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence.

(1A) An indictable offence against this Act is—

(a) for an offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or

(b) otherwise—a misdemeanour.

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(2) Any other offence against this Act is a summary offence.

495 Proceedings for indictable offences

(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

(4) The maximum penalty of imprisonment that may be summarily imposed for an indictable offence is 1 year's imprisonment.

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496 Limitation on who may summarily hear indictable offence proceedings

(1) A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

497 Limitation on time for starting summary proceedings

(1) A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886*, other than a relevant summary proceeding, must start—

(a) within 2 years after the commission of the offence; or

(b) if an enforceable undertaking has been made in relation to the offence—within 2 years after—

(i) the enforceable undertaking is contravened; or

(ii) the administering authority has agreed under section 509 to the withdrawal of the enforceable undertaking.

(2) A relevant summary proceeding must start—

(a) within 3 years after the commission of the offence; or

(b) if an enforceable undertaking has been made in relation to the offence—within 2 years after—

(i) the enforceable undertaking is contravened; or

(ii) the administering authority has agreed under section 509 to the withdrawal of the enforceable undertaking.

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(3) In this section—

relevant summary proceeding means a proceeding by way of summary proceeding under the *Justices Act 1886* for—

(a) an indictable offence against this Act; or

(b) an offence against any of the following provisions of this Act—

(i) section 319(2) if paragraph (b) of the penalty applies;

(ii) section 319C(3) if paragraph (b) of the penalty applies;

(iii) section 357I if paragraph (b) of the penalty applies;

(iv) section 369A(1) if paragraph (b) of the penalty applies;

(v) section 369A(2);

(vi) section 426(1);

(vii) section 430(3);

(viii) section 431(2) if the penalty under section 430(3) applies;

(ix) section 437(2);

(x) section 438(2);

(xi) section 440(1) or (2);

(xii) section 443A.

498 Notice of defence

(1) If a person intends to rely on a defence under chapter 8 or section 493A(3), the person must give written notice of the intention to the prosecutor—

(a) for a charge being prosecuted by way of summary proceeding under the *Justices Act 1886*—at least 10 business days before the charge is heard; or

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(b) for a charge being prosecuted on indictment—at least 5 business days before the charge is set down for hearing.

(2) If the person has not given the written notice under subsection (1), the court may, on the application of the prosecution, make either or both of the following orders—

(a) an order to adjourn the hearing;

(b) an order that the person pay the prosecution the costs incurred by the prosecution because of the application for the adjournment.

499 Proof of authority

If a provision for an offence against this Act refers to a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76, applies as if the doing of the act or the making of the omission with an environmental authority were an exemption contained in the provision.

500 Fines payable to local government

(1) This section applies if—

(a) the administration and enforcement of a matter has been devolved or delegated to a local government; and

(b) a proceeding for an offence about the matter is taken; and

(c) a court imposes a fine for the offence.

(2) The fine must be paid to the local government.

(3) If a person other than the local government prosecutes the offence, subsection (2) does not apply to any part of the fine the court orders be paid to the party.

501 Recovery of costs of rehabilitation or restoration etc.

(1) This section applies if, in a proceeding for an offence against this Act—

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(a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; and

(b) the court finds the administering authority has reasonably incurred costs and expenses—

(i) in taking action to prevent or minimise the harm or to rehabilitate or restore the environment because of the contravention; or

(ii) reimbursing costs and expenses under section 488; and

(c) the administering authority applies to the court for an order against the defendant for the payment of the costs and expenses.

(2) The court must order the defendant to pay the administering authority's reasonable costs and expenses to the authority unless it is satisfied it would not be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

502 Court may make particular orders

(1) This section applies if, in a proceeding for an offence against this Act—

(a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; or

(b) the court finds the defendant has committed an offence against any of the following—

(i) section 426;

(ii) section 430;

(iii) section 435A;

(iv) section 440ZG.

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(2) The court may, on application by the prosecution, make 1 or more of the following orders against the defendant—

(a) a rehabilitation or restoration order;

(b) a public benefit order;

(c) an education order;

(d) a monetary benefit order;

(e) a notification order.

(2A) The court may, in making an order under subsection (2), impose any other requirements the court considers necessary or desirable for enforcement of the order.

(3) Subsection (4) applies if the court finds that, because of the act or omission constituting the offence, another person has—

(a) suffered loss of income; or

(b) suffered a reduction in the value of, or damage to, property; or

(c) incurred costs or expenses in replacing or repairing property, or in preventing or minimising, or attempting to prevent or minimise, a loss, reduction or damage mentioned in paragraph (a) or (b).

(3A) Also, subsection (4) applies regardless of whether the court makes an order under subsection (2).

(4) The court may, on application by the prosecution, order the defendant to do either or both of the following—

(a) pay to the other person an amount of compensation the court considers appropriate for the loss, reduction or damage suffered, or costs or expenses incurred;

(b) take stated remedial action the court considers appropriate.

(5) An order under this section must state the time within which the order must be complied with.

(6) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

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(7) In this section—

education order means an order requiring the person against whom it is made to conduct a stated advertising or education campaign to promote compliance with this Act.

monetary benefit order means an order requiring the person against whom it is made to pay an amount representing any financial or other benefit the person has received because of the act or omission constituting the offence in relation to which the order is made.

Example of a monetary benefit order—

If a defendant is found to have carried out an environmentally relevant activity without an environmental authority, the court may order the defendant to pay the administering authority an amount equal to the annual fees for the period for which the activity was carried out without an environmental authority.

notification order means an order requiring the person against whom it is made to notify in a stated way a person, or class of persons, of—

(a) the act or omission constituting the offence in relation to which the order is made; and

(b) other stated information about the act or omission.

Examples of ways the notification may be required to be given to particular persons—

- by publishing the notification in the person's annual report
- by giving the notification to persons affected by the act or omission

public benefit order means an order requiring the person against whom it is made—

(a) to pay an amount of money to a stated person or organisation for the carrying out of a stated project to restore or enhance the environment in a public place or for the public benefit; or

(b) to carry out a stated project to restore or enhance the environment in a public place or for the public benefit.

rehabilitation or restoration order means an order requiring the person against whom it is made to take stated action to

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rehabilitate or restore the environment that was adversely affected because of the act or omission constituting the offence in relation to which the order is made.

502A Administering authority may take action and recover costs

(1) This section applies if an order is made against a person under section 502, and the person fails to comply with the order within the time stated in the order.

(2) The administering authority may carry out work or take any other action reasonably necessary to fulfil the requirements of the order.

(3) The costs reasonably incurred by the administering authority in carrying out work or taking other action under subsection (2) are a debt payable by the person to the administering authority.

503 Recovery of costs of investigation

(1) This section applies if—

(a) a person is convicted of an offence against this Act; and

(b) the court finds the prosecution has reasonably incurred costs and expenses in investigating the offence; and

(c) the prosecution applies for an order against the person for the payment of the costs and expenses.

(2) Without limiting subsection (1)(b), costs and expenses in investigating the offence may include costs and expenses of taking any sample or conducting any inspection, test, measurement or analysis during the investigation.

(3) The court may order the person to pay to the prosecution the reasonable costs and expenses incurred by the prosecution if it is satisfied it would be just to make the order in the circumstances of the particular case.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

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504 Offences relating to Great Barrier Reef World Heritage Area

(1) This section applies if—

(a) a person is convicted of an offence against this Act; and

(b) the commission of the offence caused, or was likely to cause, environmental harm to the Great Barrier Reef World Heritage Area.

(2) In sentencing the person for the offence, the court must consider the environmental harm caused, or likely to have been caused, to the Great Barrier Reef World Heritage Area.

Part 4 Restraint orders

505 Restraint of contraventions of Act etc.

(1) A proceeding may be brought in the Court for an order to remedy or restrain an offence against this Act, or a threatened or anticipated offence against this Act, by—

(a) the Minister; or

(b) the administering authority; or

(c) someone whose interests are affected by the subject matter of the proceeding; or

(d) someone else with the leave of the Court (even though the person does not have a proprietary, material, financial or special interest in the subject matter of the proceeding).

(2) In deciding whether or not to grant leave to a person under subsection (1)(d), the Court—

(a) must be satisfied—

(i) environmental harm has been or is likely to be caused; and

(ii) the proceeding would not be an abuse of the process of the Court; and

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(iii) there is a real or significant likelihood that the requirements for the making of an order under this section would be satisfied; and

(iv) it is in the public interest that the proceeding should be brought; and

(v) the person has given written notice to the Minister or, if the administering authority is a local government, the administering executive, asking the Minister or authority to bring a proceeding under this section and the Minister or executive has failed to act within a time that is a reasonable time in the circumstances; and

(vi) the person is able to adequately represent the public interest in the conduct of the proceeding; and

(b) may have regard to other matters the Court considers relevant to the person's standing to bring and maintain the proceeding.

(3) However, the Court must not refuse to grant leave merely because the person's interest in the subject matter of the proceeding is no different from someone else's interest in the subject matter.

(4) The Court may grant leave subject to conditions, including, for example—

(a) a condition requiring the person to give security for the payment of costs of the proceeding that may be awarded against the person; or

(b) a condition requiring the person to give an undertaking about damages.

(5) If the Court is satisfied—

(a) an offence against this Act has been committed (whether or not it has been prosecuted); or

(b) an offence against this Act will be committed unless restrained;

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the Court may make the orders it considers appropriate to remedy or restrain the offence.

(6) An order—

(a) may direct the defendant—

(i) to stop an activity that is or will be a contravention of this Act; or

(ii) to do anything required to comply with, or to cease a contravention of, this Act; and

(b) may be in the terms the Court considers appropriate to secure compliance with this Act; and

(c) must specify the time by which the order is to be complied with; and

(d) may include an order for the defendant to pay the costs reasonably incurred by the administering authority in monitoring the defendant's actions in relation to the offence.

(7) The Court's power to make an order to stop an activity may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

(b) the person has previously engaged in an activity of that kind; or

(c) there is danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.

(8) The Court's power to make an order to do anything may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of that kind; or

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(c) there is danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.

(9) Without limiting the powers of the Court, the Court may make an order—

(a) restraining the use of plant or equipment or a place; or

(b) requiring the demolition or removal of plant or equipment, a structure or another thing; or

(c) requiring the rehabilitation or restoration of the environment.

(10) The Court must order a plaintiff to pay costs if the Court is satisfied the proceeding was brought for obstruction or delay.

(11) The Court's power under this section is in addition to its other powers.

(12) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (12)—3,000 penalty units or 2 years imprisonment.

506 Power of Court to make order pending determination of proceeding

(1) This section applies if a proceeding has been brought by a person in the Court under section 505 and the Court has not determined the proceeding.

(2) On the person's application, the Court may make an order of a kind mentioned in section 505 pending determination of the proceeding if it is satisfied it would be proper to make the order.

(3) The Court's power to make an order to stop an activity may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

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(b) the person has previously engaged in an activity of that kind; or

(c) there is an imminent danger of substantial damage to the environment if the person engages, or continues to engage, in the activity.

(4) The Court's power to make an order to do anything may be exercised whether or not—

(a) it appears to the Court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of that kind; or

(c) there is an imminent danger of substantial damage to the environment if the person fails, or continues to fail, to do the thing.

(5) The Court's power under this section is in addition to its other powers.

(6) A person who contravenes an order commits an offence against this Act.

Maximum penalty for subsection (6)—3,000 penalty units or 2 years imprisonment.

506A Orders against persistent offenders

(1) This section applies if—

(a) a person is convicted of a serious environmental offence; and

(b) the person has been convicted of the same, or a different, serious environmental offence at least 2 other times in the previous 5 years.

(2) If the court convicting the person considers it necessary to stop the person from committing further serious environmental offences, the court may make—

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(a) an order prohibiting the person from carrying out a particular activity; or

Example of order under paragraph (a)—

an order prohibiting a person from carrying out an environmentally relevant activity

(b) an order prohibiting the person from carrying out a particular activity except in particular circumstances; or

(c) any other order the court considers appropriate.

(3) A person must not contravene an order made under subsection (2).

Maximum penalty—3,000 penalty units or 2 years imprisonment.

(4) In this section—

serious environmental offence means an offence under this Act for which the maximum penalty is 1,500 penalty units or more.

Part 5 Enforceable undertakings

507 Administering authority may accept enforceable undertakings

(1) The administering authority may accept a written undertaking (an ***enforceable undertaking***) made by a person in relation to a contravention or alleged contravention by the person of this Act, other than an indictable offence.

(2) An enforceable undertaking must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed by regulation.

(3) The administering authority must give the person written notice of—

(a) the administering authority's decision to accept or reject the enforceable undertaking; and

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(b) the reasons for the decision.

(4) The administering authority must not accept the enforceable undertaking unless the administering authority believes that the undertaking will—

(a) secure compliance with the Act; and

(b) enhance the protection of the environment.

(5) If the administering authority decides to accept the enforceable undertaking, the administering authority must publish a copy of the undertaking on the administering authority's website.

(6) The administering authority may accept an enforceable undertaking in relation to a contravention or alleged contravention at any time before any proceedings in relation to the contravention end.

(7) If the administering authority accepts an enforceable undertaking after proceedings in relation to the contravention have started, the administering authority must take all reasonable steps to have the proceedings discontinued as soon as practicable.

508 Effect of enforceable undertaking

(1) An enforceable undertaking takes effect when the administering authority gives the person who made the undertaking notice of the decision to accept the undertaking.

(2) No proceedings for a contravention or alleged contravention of this Act may be taken against the person in relation to the contravention that is the subject of the undertaking if the person is complying, or has complied, with the undertaking.

(3) The making of an enforceable undertaking does not constitute an admission of guilt by the person making the undertaking.

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509 Withdrawal or variation of enforceable undertaking

(1) A person who has made an enforceable undertaking may at any time, with the written agreement of the administering authority—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking may not be varied to provide for a different alleged contravention of the Act.

(3) The administering authority must publish notice of the withdrawal or variation of an enforceable undertaking on the administering authority's website.

510 Amending enforceable undertaking—with agreement

The administering authority may amend an enforceable undertaking with the written agreement of the person who made the undertaking.

511 Amending enforceable undertaking—clerical or formal errors

The administering authority may amend an enforceable undertaking to correct a clerical or formal error if—

(a) the amendment does not adversely affect the interests of the person who made the undertaking or anyone else; and

(b) the person has been given written notice of the amendment.

512 Amending or suspending enforceable undertaking—after show cause process

(1) The administering authority may amend or suspend an enforceable undertaking if the administering authority is satisfied—

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(a) the undertaking was accepted relying on a representation or declaration, made either orally or in writing, that was false or misleading in a material particular; or

(b) the undertaking was accepted 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 the quality of contaminant permitted to be released into the environment; or

(c) the amendment or suspension is necessary or desirable because of an environmental audit, investigation or report under chapter 7, part 2; or

(d) the amendment or suspension is necessary or desirable because of a significant change in the way in which, or the extent to which, the relevant activity is being carried out that affects the likelihood of the undertaking—

(i) securing compliance with this Act; or

(ii) enhancing the protection of the environment.

(2) The administering authority must give the person who made the undertaking a notice that states—

(a) the action that the administering authority proposes to take; and

(b) if the action is an amendment of the undertaking—the amendment; and

(c) if the action is a suspension of the undertaking—the period of the suspension; and

(d) the grounds for taking the action; and

(e) the facts and circumstances that are the basis for the grounds; and

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(f) that the person may make written representations to show why the action should not be taken; and

(g) the period, of at least 20 business days after the person is given the notice, within which the person may make the representations.

(3) If the administering authority proposes to amend the enforceable undertaking, the notice must be accompanied by a copy of the undertaking that shows the amendment.

(4) The administering authority must consider any written representation the person makes within the period stated in the notice.

(5) If the administering authority still believes a ground exists to take the action, the authority may decide to take the action.

(6) Within 10 business days after making that decision, the administering authority must give the person an information notice about the decision.

(7) If the administering authority, at any time, decides not to take the action, the administering authority must promptly give the person written notice of the decision.

513 Contravention of enforceable undertaking

(1) A person must not contravene an enforceable undertaking made by that person that is in effect.

Maximum penalty—

(a) if the offence is committed wilfully—6,250 penalty units or 5 years imprisonment; or

(b) otherwise—4,500 penalty units.

(2) Regardless of whether the person is prosecuted for an offence against subsection (1), the administering authority may apply to a Magistrates Court for an order if the person contravenes the enforceable undertaking.

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(3) If the court is satisfied that the person contravened the undertaking, the court, in addition to imposing any penalty, may make 1 or both of the following orders—

(a) an order directing the person to comply with the undertaking;

(b) an order discharging the undertaking.

(4) Also, the court may make any other order that the court considers appropriate in the circumstances, including an order directing the person to pay to the administering authority—

(a) the costs of the proceedings; and

(b) the reasonable costs of the administering authority in monitoring compliance with the enforceable undertaking in the future.

Chapter 11 Administration

Part 1 Devolutions

514 Devolution of powers

(1) The Governor in Council may, by regulation, devolve to a local government the administration and enforcement of—

(a) the whole or part of an environmental protection policy; or

(b) the issue of environmental authorities; or

(c) another matter under this Act (other than chapter 2 or chapter 7, part 8).

(2) The administration and enforcement of this Act for a matter relating to an area below the high or low water mark forming the boundary of a local government's area may be devolved to the local government.

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(3) On the commencement of the regulation—

(a) the local government becomes the administering authority for the devolved matter; and

(b) the local government's chief executive officer becomes the administering executive for the devolved matter; and

(c) the administration and enforcement of the devolved matter is a function of local government to be performed by the local government for its area.

(4) If the devolved matter relates to a matter mentioned in subsection (2), the local government's area is, for subsection (3)(c), taken to include the area to which the matter relates.

(5) To remove any doubt, the local government may—

(a) make a resolution or local law (not inconsistent with this Act) about the fees payable to it for the devolved matter; and

(b) make a local law (not inconsistent with this Act) about any matter for which it is necessary or convenient to make provision for carrying out or giving effect to the devolved matter.

(6) Despite subsection (5)(a), a local government may make a resolution or local law prescribing a different fee, whether higher or lower, for something for which a fee is prescribed under a regulation.

(6A) Despite subsection (5)(b), a local government may make a local law, for carrying out or giving effect to the devolved matter, that is inconsistent with a regulation if the local law imposes requirements in relation to environmental nuisance.

(7) If the chief executive is satisfied the local government has failed to do anything in the administration or enforcement of the devolved matter—

(a) the chief executive may do the thing; and

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(b) the reasonable costs and expenses incurred by the chief executive are a debt payable by the local government to the State.

Part 2 Delegations

515 Delegation by Minister

(1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer.

(2) However, the Minister can not delegate the power to give the rehabilitation commissioner a written direction under section 444N(1).

516 Delegation by chief executive

(1) The chief executive may delegate the executive's powers under this Act as the chief executive to—

(a) an appropriately qualified—

(i) authorised person; or

(ii) public service officer; or

(b) a local government.

(2) However, the chief executive can not delegate the following powers—

(a) the power to ask the rehabilitation commissioner to provide guidance under section 444I(c);

(b) a power under a regulation prescribed by regulation as a power that cannot be delegated.

(3) A delegation of a chief executive's power to a local government may permit the subdelegation of the power to an appropriately qualified entity.

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517 Delegation by administering executive or local government chief executive officer

(1) The chief executive's powers under this Act as the administering executive may be delegated or subdelegated in the same way as the chief executive's powers may be delegated or subdelegated under section 516.

(2) A local government's chief executive officer may delegate the officer's powers under this Act, as the administering executive or otherwise, to an appropriately qualified employee of the local government.

(3) A delegation under subsection (2) of a power of a local government's chief executive officer to an employee of a local government may permit the subdelegation of the power to another appropriately qualified employee of the local government.

518 Delegation by administering authority

(1) An administering authority may—

(a) if the authority is the chief executive—delegate the authority's powers under this Act to—

(i) an authorised person or public service officer; or

(ii) a local government; or

(b) if the authority is a local government—by resolution, delegate the authority's powers under this Act to an appropriately qualified entity.

(2) A delegation of a power as follows may permit the subdelegation of the power to an appropriately qualified entity—

(a) a power of the chief executive, as the administering authority, delegated to a local government;

(b) a power of a local government as the administering authority.

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Part 3 Review of decisions and appeals

Division 1 Interpretation

519 Original decisions

(1) A decision mentioned in schedule 2 is an ***original decision***.

(2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an ***original decision***.

520 Dissatisfied person

(1) A ***dissatisfied person***, for an original or review decision, is—

(a) if the decision is about an EIS or the EIS process for an EIS—the relevant proponent under chapter 3, part 1, for the project to which the EIS relates; or

(b) if the decision is about an application for an environmental authority or proposed PRC plan for the application—the applicant; or

(c) 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

(d) if the decision is about an application for registration of a person as a suitable operator—the applicant; or

(e) if the decision is about a registered suitable operator—the operator; or

(f) if the decision is to give a PRCP schedule audit notice under section 285 and section 285(2)(b) applies in relation to the giving of the notice—the holder of the schedule; or

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(g) 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

(h) if the decision is to refuse an application to recognise an accreditation program for an agricultural ERA—the applicant; or

(i) if the decision is about a recognised accreditation program for an agricultural ERA—the owner of the program; or

(j) if the decision is to give an audit notice under section 322, 322A or 323—the recipient; or

(k) if the decision is to conduct an environmental audit or prepare an environmental report for an audit under section 326—the relevant environmental authority holder; or

(l) if the decision is about an environmental investigation or environmental enforcement order—the recipient; or

(m) if the decision is about a transitional environmental program—the holder of the program or person or public authority that is required to apply for the issue of the program; or

(n) if the decision is about a temporary emissions licence—

(i) the applicant for the licence; or

(ii) the holder of the licence; or

(o) if the decision is to issue a cost recovery notice—the recipient; or

(p) if the decision is about recording particulars of land in, or removing particulars of land from, the environmental management register or contaminated land register—the land's owner; or

(q) if the decision is about a site management plan for contaminated land—

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(i) the recipient for the notice to prepare or commission the site management plan, other than for a decision under section 399; and

(ii) the land's owner; and

(iii) if another person prepares or commissions the plan—the other person, other than for a decision under section 399; or

(r) if the decision is about erecting signs on contaminated land—the land's owner; or

(s) if the decision is about a disposal permit—the applicant for the permit; or

(t) if the decision is about an exemption under chapter 8, part 3F, division 3—the person applying for, or given, the exemption; or

(u) if the decision is to give a notice under section 451(1)—the person to whom the notice is given; or

(v) if the decision is about seizing a thing under section 461 unless a circumstance mentioned in section 463B(1)(a) or (b) applies—the owner or person in control of the seized thing before it was seized; or

(w) if the decision is about retaining a seized thing under section 463D(4)(a)—the owner of the seized thing; or

(x) if the decision is about an application for approval as an auditor under chapter 12, part 3A, division 2—the applicant; or

(y) if the decision is about an auditor—the auditor; or

(z) if the decision is about a complaint under chapter 12, part 3A, division 5—the person who made the complaint; or

(za) if the decision is about a conversion application under section 695—the applicant; or

(zb) if the decision is a decision under an environmental protection policy or a regulation that the policy or

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regulation declares to be a decision to which this part applies—the person declared under the policy or regulation to be a dissatisfied person for the decision.

(2) A submitter for an application is also a ***dissatisfied person*** if the decision is about—

(a) a site-specific application for an environmental authority for a petroleum activity; or

(b) an amendment application under chapter 5, part 7 for an environmental authority for a resource activity, other than a mining activity; or

(c) an application for the issue of a transitional environmental program to which section 335 applies.

Division 2 Internal review of decisions

521 Procedure for review

(1) A dissatisfied person may apply for a review of an original decision.

(2) The application must—

(a) be made in the approved form to the administering authority within the following period (the ***review application period***)—

(i) 10 business days after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the ***review date***);

(ii) the longer period the authority in special circumstances allows; and

(b) be supported by enough information to enable the authority to decide the application.

(3) The administering authority must, within 5 business days after the end of the review application period or, if 2 or more applications are received in relation to the original decision,

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the end of the latest of the review application periods, send the following documents to the other persons who were given notice under this Act of the original decision—

(a) notice of the application (the ***review notice***);

(b) either—

(i) a copy of the application and supporting documents; or

(ii) details of where a copy of the application and supporting documents may be inspected or accessed.

(4) The review notice must inform the recipient that submissions on the application may be made to the administering authority within 5 business days (the ***submission period***) after the day the authority sends the review notice to the recipient.

(5) If the administering authority receives only 1 application in relation to the original decision and is satisfied the applicant has complied with subsection (2), the authority must, within the decision period—

(a) review the original decision; and

(b) consider any submissions properly made by a recipient of the review notice; and

(c) make a decision (the ***review decision***) to—

(i) confirm or revoke the original decision; or

(ii) vary the original decision in a way the administering authority considers appropriate.

(6) If the administering authority receives 2 or more applications in relation to the original decision and is satisfied the applicants have complied with subsection (2), the authority must, within the decision period—

(a) review the original decision; and

(b) consider any submissions properly made by a recipient of any of the review notices; and

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(c) make 1 decision (also the ***review decision***) in relation to the applications to—

(i) confirm or revoke the original decision; or

(ii) vary the original decision in a way the administering authority considers appropriate.

(7) The application does not stay the original decision.

Note—

See part 3, division 4 in relation to stays.

(8) The application must not be dealt with by—

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(9) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice under this Act of the original decision.

(10) The notice must—

(a) include the reasons for the review decision; and

(b) inform the persons of their right of appeal against the decision.

(11) If the administering authority does not comply with subsection (5), (6) or (9), the authority is taken to have made a decision confirming the original decision.

(12) Subsection (8) applies despite the *Acts Interpretation Act 1954*, section 27A.

(13) This section does not apply to an original decision made by—

(a) for a matter, the administration and enforcement of which has been devolved to a local government—the local government itself or the chief executive officer of the local government personally; or

(b) for another matter—the chief executive personally.

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(14) Also, this section does not apply to an original decision to issue an environmental enforcement order under section 362(2)(a).

(15) In this section—

decision period, for a review of an original decision, means—

(a) if only 1 application is received in relation to the original decision and a submission is received within the submission period—

(i) 20 business days after the administering authority receives the application; or

(ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or

(b) if only 1 application is received in relation to the original decision and no submissions are received within the submission period—

(i) 15 business days after the administering authority receives the application; or

(ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or

(c) if 2 or more applications are received in relation to the original decision and a submission is received within the submission period for at least 1 of the applications—

(i) 20 business days after the administering authority receives the latest of the applications; or

(ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or

(d) if 2 or more applications are received in relation to the original decision and no submissions are received within the submission period for any of the applications—

(i) 15 business days after the administering authority receives the latest of the applications; or

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(ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides.

Division 3 Appeals

Subdivision 1 Appeals to Land Court

523 Review decisions subject to Land Court appeal

This subdivision applies if the administering authority makes a review decision for an original decision mentioned in schedule 2, part 1.

524 Right of appeal

A dissatisfied person who is dissatisfied with the review decision may appeal against the decision to the Land Court.

525 Appeal period

(1) The appeal must be started within 22 business days after the appellant receives notice of the review decision.

(2) However, the Land Court may at any time extend the time for starting the appeal.

526 Land Court mediation

(1) Any party to the appeal may, at any time before the appeal is decided, ask the Land Court to conduct or provide mediation for the appeal.

(2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court.

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527 Nature of appeal

The appeal is by way of rehearing, unaffected by the review decision.

528 Land Court's powers for appeal

In deciding the appeal, the Land Court has the same powers as the administering authority.

530 Decision for appeals

(1) In deciding the appeal, the Land Court may—

(a) confirm the review decision; or

(b) set aside the decision and substitute another decision; or

(c) set aside the decision and return the matter to the administering authority who made the decision, with directions the Land Court considers appropriate.

(2) In setting aside or substituting the decision, the Land Court has the same powers as the authority unless otherwise expressly stated.

(3) However, this part does not apply to a power exercised under subsection (2).

(4) If the Land Court substitutes another decision, the substituted decision is taken for this Act, other than this subdivision, to be the authority's decision.

Subdivision 2 Appeals to Court

531 Who may appeal

(1) A dissatisfied person who is dissatisfied with a review decision may appeal against the decision to the Court.

(2) However, the following review decisions can not be appealed against to the Court—

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(a) a review decision to which subdivision 1 applies;

(b) a review decision that relates to an original decision mentioned in schedule 2, part 3.

(3) The chief executive may appeal against another administering authority's decision (whether an original or review decision) to the Court.

(4) A dissatisfied person who is dissatisfied with an original decision to which section 521 does not apply may appeal against the decision to the Court.

532 How to start appeal

(1) An appeal is started by—

(a) filing written notice of appeal with the registrar of the Court; and

(b) complying with rules of court applicable to the appeal.

(2) The notice of appeal must be filed—

(a) if the appellant is the chief executive—within 33 business days after the decision is made or taken to have been made; or

(b) if the appellant is not the chief executive—within 22 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.

(3) The Court may at any time extend the period for filing the notice of appeal.

(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

533 Appellant to give notice of appeal to other parties

(1) Within 8 business days after filing the notice of appeal, the appellant must serve notice of the appeal on—

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(a) if the appellant is the chief executive—all persons who were given notice under this Act of the original decision; or

(b) if the appellant is not the chief executive—the other persons who were given notice under this Act of the original decision.

(2) The notice must inform the persons that, within 10 business days after service of the notice of appeal, they may elect to become a respondent to the appeal by filing in the Court a notice of election under rules of court.

534 Persons may elect to become respondents to appeal

A person who properly files in the Court a notice of election becomes a respondent to the appeal.

536 Hearing procedures

(1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

(2) An appeal is by way of rehearing, unaffected by the administering authority's decision.

537 Assessors

If the judge hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge may appoint 1 or more assessors to help the judge in deciding the appeal.

538 Appeals may be heard with planning appeals

(1) This section applies if—

(a) a person appeals against an administering authority's decision (whether an original or review decision) about

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an application for an environmental authority for a prescribed ERA; and

(b) a person appeals against the assessment manager's decision under the Planning Act about a planning or development matter for the premises to which the application for the authority relates.

(2) The Court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other has been decided.

(3) This section applies even though the parties, or all of the parties, to the appeals are not the same.

539 Powers of Court on appeal

(1) In deciding an appeal, the Court may—

(a) confirm the decision appealed against; or

(b) vary the decision appealed against; or

(c) set aside the decision appealed against and make a decision in substitution for the decision set aside.

(2) If on appeal the Court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the administering authority.

Division 4 Stays

539A Stay of operation of original decisions for internal review

(1) If an application is made for internal review of an original decision mentioned in schedule 2, part 1 or 2, the applicant may immediately apply for a stay of the decision to—

(a) for an original decision mentioned in schedule 2, part 1—the Land Court; or

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(b) for an original decision mentioned in schedule 2, part 2—the Court.

(2) The Land Court or the Court may stay the decision only if it considers the stay is desirable having regard to the following—

(a) the interests of any person whose interests may be affected by the granting of the stay or the stay not being granted;

(b) any submission made to the Land Court or the Court by the entity that made the original decision;

(c) the public interest.

(3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.

(4) The period of a stay must not extend past the end of the period within which an appeal against the review decision may be started under section 525 or 532.

(5) This section applies subject to sections 539C and 539D.

(6) In this section—

internal review, of an original decision, means a review of the decision under section 521.

539B Stay of operation of decisions appealed against to Land Court or Court

(1) This section applies to—

(a) an original decision appealed against to the Court if section 521 does not apply to the decision; or

(b) an original decision appealed against to the Land Court or the Court if the decision is confirmed or varied by a review decision.

(2) The Land Court or the Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal.

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(3) A stay may be granted on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.

(4) The period of a stay must not extend past the time when the Land Court or the Court decides the appeal.

(5) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

(6) This section applies subject to sections 539C to 539E.

539C Stay of decision about financial assurance

(1) This section applies to an application under section 539A or 539B for a stay of a decision about the amount of financial assurance required under a condition of an environmental authority.

(2) The decision may not be stayed unless the administering authority has been given security for at least 75% of the amount of financial assurance that was decided by the administering authority.

539D Stay of particular decisions if unacceptable risk of environmental harm

(1) This section applies to an application under section 539A or 539B 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 enforcement order under section 362, other than an environmental enforcement order to which section 539E applies.

(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.

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539E Stay of decision to issue an environmental enforcement order in particular circumstances

(1) This section applies to an application under section 539B for a stay of a decision to issue an environmental enforcement order under section 362(2)(a).

(2) In deciding the application, the Court must have regard to—

(a) the quantity and quality of contamination of the environment that is likely to be caused if the stay is granted; and

(b) the proximity of the place at or from which the contamination incident is happening or happened to a place with environmental values that may be adversely affected by the contamination.

539F Effect of stay of ERC decision

(1) This section applies if 1 of the following decisions is stayed—

(a) an original decision that is an ERC decision;

(b) an original decision appealed against to the Land Court if the decision is an ERC decision that is confirmed or varied by a review decision.

(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.

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Part 4 General

540 Registers to be kept by administering authority

(1) The administering authority must, for its administration under this Act, keep a register of the following—

(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) post-surrender management reports;

(x) annual returns required under section 316IA(2) and any evaluation required under section 316J or 316K;

(xi) information notices given in relation to the amount and form of financial assurance;

(xii) notices given under section 314(1)(b) or 315(5);

(aa) application documents for an application for an environmental authority or amendment of an environmental authority, including information requests and responses to information requests;

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

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(b) for chapter 7, part 2—environmental evaluations and environmental reports;

(c) monitoring programs carried out under—

(i) this Act; or

(ii) a development condition of a development approval;

(d) the results of monitoring programs mentioned in paragraph (c);

(e) transitional environmental programs;

(ea) temporary emissions licences;

(eb) documents required to be given under—

(i) a condition of an environmental authority; or

(ii) a transitional environmental program or a condition of a transitional environmental program; or

(iii) a condition of a temporary emissions licence;

(f) environmental enforcement orders;

(i) cost recovery notices;

(j) authorised persons;

(ja) accepted enforceable undertakings;

(k) other documents or information prescribed under regulation.

(2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

540A Registers to be kept by chief executive

(1) The chief executive must keep a register of the following—

(a) for chapter 3, the following—

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(i) final terms of reference published by the chief executive;

(ii) submitted EISs;

(iii) written summaries of submissions given to the chief executive about submitted EISs;

(iv) proponents' responses to the submissions mentioned in subparagraph (iii);

(v) EIS amendment notices;

(vi) EIS assessment reports;

(b) for chapter 5A, the following—

(i) eligibility criteria for environmentally relevant activities;

(ii) standard conditions;

(iii) codes of practice;

(iv) suitable operators;

(v) suspended or cancelled registrations;

(vi) recognised accreditation programs for agricultural ERAs;

(vii) suspended or cancelled recognition of accreditation programs for agricultural ERAs;

(c) for chapter 7, part 8—

(i) an environmental management register; and

(ii) a contaminated land register;

(d) for chapter 12, part 1—

(i) guidelines made by the Minister; and

(ii) guidelines made by the chief executive;

(e) for chapter 12, part 3A—auditors;

(f) other documents or information prescribed under regulation.

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(2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

541 Keeping of registers

(1) This section applies if the chief executive or administering authority (the ***relevant entity***) is required to keep a register under section 540 or 540A.

(2) If the relevant entity considers it impracticable to include a document in a register, it may include details of the document in the register instead of the document.

(3) However, if the register only includes details of a document—

(a) the relevant entity must keep the document open for public inspection in the way required of a register under section 542; and

(b) section 542 applies to the document as if it were included in a register.

(4) If particulars of any land are recorded in the environmental management register or contaminated land register, they must include the real property description of the land.

(5) Subject to subsections (2) to (4), the relevant entity may keep a register in the way it considers appropriate, including, for example, on a website.

542 Inspection of register

(1) The relevant entity must, for a register mentioned in section 540(1) or 540A(1), other than the environmental management register or contaminated land register—

(a) keep the register open for inspection by members of the public—

(i) if the register is kept on a website—on the website; or

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(ii) otherwise—during office hours on business days at the entity's relevant office for the administration of this Act; and

(b) permit a person to take extracts from the register or, on payment of the appropriate fee by a person, give the person a copy of the register, or part of it.

(2) The fee for a copy of the register or part of it is the amount that—

(a) the relevant entity considers to be reasonable; and

(b) is not more than the reasonable cost of making the copy.

(3) The chief executive must, on payment of the fee prescribed under a regulation, permit members of the public to obtain extracts from the environmental management register or contaminated land register.

542A Personal information on register

(1) This section applies if the relevant entity is satisfied someone's personal safety would be put at risk if particular information (for example, the person's address or other contact details) were to be included, or allowed to remain, in a register mentioned in section 540(1) or 540A(1).

(2) The relevant entity must ensure the information—

(a) is not included in a part of the register that is available to the public; and

(b) is not included in an extract or copy of information from the register, whether or not the information is from a part of the register that is available to the public.

543 Appropriate fee for copies

(1) This section applies if, under this Act, the administering authority or other entity must, on payment of the appropriate fee to the entity, give a person a copy of a document, or a part of a document.

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(2) The fee for the copy of the document or part of it is the amount that is the lesser of the following—

(a) for the chief executive—the amount the chief executive decides is reasonable;

(b) otherwise—the amount the administering authority decides is reasonable;

(c) the amount that is no more than the reasonable cost incurred by the authority or other entity in making the copy and giving it to the person.

(3) Despite subsection (2) or any other provision of this Act, the authority or other entity may give the document without the payment.

(4) In this section—

document does not include the following registers or an extract from the registers—

(a) the environmental management register;

(b) the contaminated land register.

544 Approved forms

(1) The administering executive may approve forms for use under this Act.

(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

545 Advisory committees

(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of this Act.

(2) An advisory committee has the functions the Minister decides.

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(3) A member of an advisory committee is entitled to be paid the fees and allowances decided by the Governor in Council.

546 Chief executive may require administering authority to report

(1) The chief executive may, by written notice, require an administering authority to give to the chief executive a report on its administration of this Act.

(2) Subsection (1) does not apply if the chief executive is the administering authority.

(3) The written notice must state—

(a) the information to be included in the report; and

(b) when the report is to be given to the chief executive.

(4) If an administering authority is given a notice under subsection (1), the authority must comply with the notice.

546A Chief executive to provide annual report

(1) Within 4 months after the end of each financial year, the chief executive must give to the Minister a report on the administration of this Act for the year.

(2) The chief executive's report must include a statement about requests received by the Minister to prepare environmental protection policies and a brief statement of the reasons for refusing any request.

(3) An administering authority's report given to the chief executive under section 546 for the preceding financial year must be attached to the chief executive's report.

(4) The Minister must table a copy of the chief executive's report in the Legislative Assembly within 14 sitting days after receiving it.

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547 State of environment report

(1) At least every 4 years, the chief executive must prepare and publish a report on the state of Queensland's environment.

(2) The report must—

(a) include an assessment of the condition of Queensland's major environmental resources; and

(b) identify significant trends in environmental values; and

(c) review significant programs, activities and achievements of persons and public authorities about the protection, restoration or enhancement of Queensland's environment; and

(d) evaluate the efficiency and effectiveness of environmental strategies implemented to achieve the object of this Act.

(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

Chapter 12 Miscellaneous

Part 1 Guidelines

548 Chief executive may make guidelines for administering authorities

(1) The chief executive may make guidelines about—

(a) how an administering authority complies with a regulatory requirement; or

(b) when an administering authority may accept enforceable undertakings.

(2) The administering authority must follow any guidelines made by the chief executive.

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(3) Before making a guideline, the chief executive must consult with the persons or entities the chief executive considers appropriate.

(4) If a guideline is made, the chief executive must notify the making of the guideline in the gazette.

548A Guidelines about issuing particular environmental enforcement orders

(1) The chief executive may make guidelines about—

(a) how the administering authority decides under section 369N whether a person has a relevant connection with a company; and

(b) in relation to a company to which section 369P or 369Q applies, how the administering authority decides—

(i) whether to issue any environmental enforcement orders to related persons of the company; and

(ii) if so, which of the related persons of the company to issue with an order.

(2) A guideline under this section takes effect when it is approved by regulation.

549 Chief executive may make guidelines to inform persons

(1) The chief executive may make guidelines to inform persons about—

(a) matters to be addressed in a draft terms of reference for an EIS submitted under section 41; or

(b) matters to be considered in making ERA standards under chapter 5A, part 1; or

(c) the qualifications and experience that may be relevant to suitably qualified persons performing regulatory functions; or

(d) another matter the chief executive considers appropriate for the administration of this Act.

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(2) Before making a guideline, the chief executive must consult with the persons or entities the chief executive considers appropriate.

(3) If a guideline is made, the chief executive must notify the making of the guideline in the gazette.

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.

Part 1A Codes of practice

551 Codes of practice

(1) The Minister may, by gazette notice, make codes of practice stating ways of achieving compliance with the general environmental duty for an activity that causes, or is likely to cause, environmental harm.

(2) In making a code of practice under subsection (1), the Minister—

(a) must have regard to the matters mentioned in section 319(4); and

(b) need not but may have regard to the matters mentioned in section 319(5).

(3) The department must keep a copy of a code of practice made under subsection (1) available on its website.

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(4) A code of practice has effect for 7 years after the day it is made, unless it is earlier repealed.

Part 2 General provisions about applications and submissions

552 When documents are served

(1) Despite the *Acts Interpretation Act 1954*, section 39A(1), if this Act requires or permits a document to be served by post, service—

(a) may be effected by properly addressing, prepaying and posting the document as a letter; and

(b) is taken to have been effected at the time at which the letter is posted.

(2) Subsection (1) applies whether the expression 'deliver', 'give', 'notify', 'send' or 'serve' or another expression is used.

553 Electronic applications and submissions

(1) This section applies if—

(a) this Act requires an application or submission to be made in an approved form; and

(b) the form provides that the application or submission may be made by using a stated electronic system or sending an email to a stated email address.

(2) The application or submission may be made by—

(a) giving the information required by the approved form by using the stated electronic system; or

(b) sending the information required by the approved form to the stated email address in a format substantially similar to the approved form.

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554 Electronic notices about applications and submissions

(1) This section applies if an application or submission has been made in an approved form, whether or not it has been made under section 553.

(2) A notice from the applicant to the administering authority about the application or submission may be given by electronically transmitting it to any email address for service for the authority stated in the approved form.

(3) A notice from the authority or anyone else to the applicant about the application or submission may be given by electronically transmitting it to any email address for service for the applicant stated in the application.

555 Electronic system for automatically issuing particular environmental authority

(1) An electronic system must not be used to automatically issue an environmental authority for a standard application mentioned in section 169A unless the chief executive approves the use of the system for that purpose.

(2) The chief executive must take all reasonable steps to ensure the approved electronic system operates, and continues to operate, in compliance with the requirements of this Act.

(3) Subsection (1) does not prevent the approved electronic system being used for another purpose relating to the administration of this Act.

558 Publication of decision or document by administering authority

(1) This section applies if a provision of this Act requires the administering authority to publish a decision or document.

(2) The publication may be made by placing a link to a record or register of the decision or to the document on the authority's website on the internet.

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(3) However, if a regulation requires the decision or document to be published in another way, it must be published in that way.

(4) The decision or document may also be published in any other way decided by the chief executive.

(5) In this section—

publish includes make available for public inspection, including, for example, insert or record particulars of in an appropriate register.

Part 3 Suitably qualified persons

564 Definitions for pt 3

In this part—

regulatory function means—

(a) conducting a site investigation under chapter 7, part 8; or

(b) preparing a site investigation report under chapter 7, part 8; or

(c) preparing a validation report under chapter 7, part 8; or

(d) preparing a draft site management plan or draft amendment of a site management plan under chapter 7, part 8; or

(e) another function prescribed under a regulation.

suitably qualified person, for performing a regulatory function, means a person who—

(a) has qualifications and experience relevant to performing the function; and

(b) if a regulation prescribes an organisation for this paragraph—is a member of the organisation.

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565 Only suitably qualified person can perform regulatory functions

A regulatory function may only be performed by a suitably qualified person.

Note—

Under section 549(1)(c), the chief executive may make guidelines to inform persons about the qualifications and experience that may be relevant to suitably qualified person performing a regulatory function.

566 Declaration to accompany document

(1) This section applies if a document about a regulatory function is prepared by a suitably qualified person and submitted to the administering authority.

(2) The document must be accompanied by a declaration by the person stating all of the following—

(a) the person's qualifications and experience relevant to the function;

(b) that the person has not knowingly included false, misleading or incomplete information in the document;

(c) that the person has not knowingly failed to reveal any relevant information or document to the administering authority;

(d) the document addresses the relevant matters for the function and is factually correct;

(e) the opinions expressed in the document are honestly and reasonably held.

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Part 3A Auditors

Division 1 Preliminary

567 Who is an *auditor*

An individual is an ***auditor*** if the individual is approved as an auditor under division 2.

568 Auditor's functions

An auditor may, subject to the terms of an approval under division 2—

(a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and

(b) prepare an auditor's certification for a contaminated land investigation document under chapter 7, part 8; and

(c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

Division 2 Obtaining approval as auditor

569 Who may apply

An individual may apply to the chief executive for approval as an auditor.

570 Requirements for application

An application for approval as an auditor must—

(a) be made in the approved form; and

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(b) state the functions proposed to be performed by the applicant; and

(c) be accompanied by the prescribed fee; and

(d) state whether the applicant holds professional indemnity insurance; and

(e) state whether the applicant has been convicted of an offence under this Act; and

(f) include other information required to be included in the application under a guideline—

(i) made by the chief executive; and

(ii) prescribed under a regulation.

571 Deciding application

(1) The chief executive must, within 30 business days after receiving the application, decide to—

(a) approve the application; or

(b) approve the application subject to conditions; or

(c) refuse the application.

(2) Without limiting subsection (1)(b), an approval may be subject to a condition that limits the functions the auditor may perform to a stated type of function.

572 Criteria for decision

In deciding the application, the chief executive must consider—

(a) the application; and

(b) whether the applicant—

(i) has qualifications and experience relevant to performing the functions of an auditor; and

(ii) is a member of an organisation prescribed under a regulation; and

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(iii) has demonstrated knowledge of—

(A) the Act; and

(B) another Act the chief executive considers is relevant to performing the functions of an auditor; and

(iv) has professional indemnity insurance; and

(v) has committed an offence under this Act; and

(vi) has committed an offence under another Act involving misleading or fraudulent conduct; and

(vii) has been appointed or approved as an auditor under a corresponding law.

573 Notice of decision

(1) The chief executive must, within 10 business days after the decision is made, give the applicant written notice of the decision.

(2) The notice must—

(a) if the decision is to approve the application—be accompanied by a certificate of approval; and

(b) if the decision is to refuse the application—state the reasons for the decision.

574 Term of approval

An approval remains in force for the term stated in the approval, unless it is earlier cancelled or suspended.

Division 3 Performance of auditor's functions

574A Who may perform auditor's functions

(1) A function mentioned in section 568 may be performed only by—

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(a) the administering authority; or

(b) an auditor whose approval under division 2 allows the auditor to perform the function.

(2) However, an auditor must not perform a function mentioned in section 568 if the auditor has a direct or indirect financial interest in a matter or thing relevant to the exercise of the function, other than any fee paid to the auditor for performing the function.

Maximum penalty for subsection (2)—100 penalty units.

574B Auditor must comply with approval

An auditor must comply with the conditions of any approval given under section 571(1)(b), unless the auditor has a reasonable excuse.

Maximum penalty—100 penalty units.

574BA Administering authority may recover costs or expenses

(1) This section applies if a person asks the administering authority to perform an auditor's function mentioned in section 568.

(2) The administering authority may recover from the person the authority's reasonable costs or expenses in performing the function.

574C Declaration to accompany particular documents

(1) This section applies if—

(a) an auditor prepares any of the following documents (each a ***relevant document***)—

(i) an environmental report about an audit under chapter 7, part 2, division 2;

(ii) a certification for a contaminated land investigation document under chapter 7, part 8;

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(iii) a report or certification about an audit or evaluation of another matter or thing prescribed by regulation; and

(b) the relevant document must be submitted, by the auditor or another person, to the administering authority.

(2) The relevant document must be accompanied by a declaration by the auditor stating the following—

(a) the auditor's qualifications and experience relevant to the subject matter of the relevant document and any audit, investigation or evaluation to which the document relates;

(b) if the relevant document is a report or certification mentioned in subsection (1)(a)(iii)—the document addresses the relevant matters for the audit or evaluation;

(c) that the auditor has not knowingly included false, misleading or incomplete information in the relevant document;

(d) that the auditor has not knowingly failed to reveal any relevant information or document to the administering authority;

(e) the document is factually correct;

(f) the opinions expressed in it are honestly and reasonably held.

Division 4 Amendment, suspension or cancellation of approval

574D Grounds for amendment, suspension or cancellation

Each of the following is a ground for amending, suspending or cancelling an auditor's approval—

(a) the auditor has contravened a condition of the approval;

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(b) the auditor has not complied with a code of conduct for auditors made by the chief executive and prescribed under a regulation;

(c) the auditor has been convicted of an offence under this Act;

(d) the auditor has been convicted of an offence under another Act involving misleading or fraudulent conduct;

(e) the auditor does not have the necessary expertise or experience to perform the auditor's functions;

(f) the audits conducted by the auditor have not been conducted honestly, fairly or diligently.

574E Show cause notice

(1) If the chief executive believes a ground exists to amend, suspend or cancel the approval, the chief executive must give the auditor a written notice under this section (a ***show cause notice***).

(2) The show cause notice must state the following—

(a) the action the chief executive proposes taking under this division (the ***proposed action***);

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the grounds;

(d) if the proposed action is suspension of the approval—the proposed suspension period;

(e) that the auditor may, within a stated period (the ***show cause period***), make written representations to the chief executive to show why the proposed action should not be taken.

(3) The show cause period must end at least 15 business days after the auditor is given the show cause notice.

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574F Representations about show cause notice

(1) The auditor may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all representations made under subsection (1).

574G Amendment, suspension or cancellation

(1) After considering any representations, the chief executive may—

(a) if the proposed action was to amend the approval—amend the approval in the proposed way, including, for example, amending a condition to which the approval is subject or adding another condition to the approval; or

(b) if the proposed action was to suspend the approval—suspend the approval for not longer than the proposed suspension period; or

(c) if the proposed action was to cancel the approval—cancel the approval or suspend it for a period.

(2) If the chief executive decides to take action under subsection (1), the chief executive must give an information notice about the decision to the auditor.

(3) The decision takes effect on the later of the following—

(a) the day the information notice is given to the auditor;

(b) the day stated in the information notice for that purpose.

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Division 5 Complaints

574H Making a complaint against an auditor

(1) A person may make a complaint to the chief executive that a ground exists under section 574D for amending, suspending or cancelling an auditor's approval.

(2) The complaint must—

(a) be in writing; and

(b) state the complainant's name, address and contact details; and

(c) contain particulars of the allegations on which the complaint is founded; and

(d) be verified by a declaration that the information provided in the complaint is true and accurate.

(3) The chief executive may require the complainant to give further particulars of the complaint within a stated reasonable period.

(4) The chief executive may decide to not take action on the complaint under division 4 if—

(a) the chief executive has asked for further particulars under subsection (3) and the further particulars are—

(i) not given; or

(ii) not verified by a declaration that the further information provided is true and accurate; or

(b) the chief executive is satisfied the complaint—

(i) is frivolous or vexatious; or

(ii) lacks substance or credibility.

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574I What happens after a complaint is made

(1) As soon as practicable after the chief executive receives a complaint, the chief executive must consider and investigate the complaint.

(2) After considering and investigating the complaint, the chief executive must decide—

(a) to accept the complaint for action under division 4; or

(b) to not take action on the complaint under division 4.

574J Notice of decision

(1) Within 10 business days after making a decision under section 574I(2), the chief executive must give written notice of the decision to the complainant.

(2) If the decision is not to take action under division 4, the notice given to the complainant must state the reasons for the decision.

Division 6 Miscellaneous

574K Obligation to keep certificate of approval

A person given a certificate of approval under section 573(2)(a) must keep the certificate for the term of the approval, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

574L Impersonation of auditor

A person must not pretend to be an auditor.

Maximum penalty—100 penalty units.

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574M False or misleading reports, certifications or declarations

(1) An auditor must not, in performing the auditor's functions, make a report, provide a certification, or make a declaration about a report or certification, that the auditor knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

(2) It is enough for a complaint for an offence against subsection (1) to state the auditor knew, or ought reasonably to have known, the report, certification or declaration was false or misleading, without specifying which.

Part 4 Entry to land to comply with environmental requirement

575 Entry orders

(1) This section applies if an environmental requirement requires a person to conduct work in relation to land to which the requirement relates (the ***primary land***).

(2) The person may apply to a Magistrates Court for an order (an ***entry order***) to enter—

(a) the primary land; or

(b) other land (***access land***) that is necessary or desirable to cross to enter the primary land.

(3) The application must state fully the grounds on which the entry order is sought.

(4) The applicant must serve a copy of the application on—

(a) the owner of the primary land and any access land; and

(b) if the owner of the primary land or any access land is not the occupier of that land—the occupier.

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(5) The court may make an entry order only if it is satisfied it is necessary and reasonable to comply with the environmental requirement.

(6) However, the court must not make an entry order that authorises entry to a building used for residential purposes.

(7) Unless the court otherwise orders, an entry order remains in force until the environmental requirement is complied with.

(8) An entry order must state each of the following—

(a) that the applicant may, with necessary and reasonable help—

(i) enter the primary land to conduct work to comply with a stated environmental requirement; and

(ii) cross any access land to enter the primary land under subparagraph (i);

(b) the hours of the day when an entry under paragraph (a) may be made;

(c) the nature of the work that may be conducted on the primary land;

(d) if the court has made an order under subsection (7)—when the entry order ends;

(e) if the court has not made an order under subsection (7)—that the entry order remains in force until the environmental requirement has been complied with.

(9) An entry order may be made with other conditions.

(10) Without limiting subsection (9), a condition may—

(a) require security to be given for the benefit of anyone who might suffer a cost, damage or loss because of the exercise or purported exercise of a power under an entry order; and

(b) provide for how and when the security may be released or used.

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576 Procedure for entry under entry order

(1) This section applies if—

(a) a person (the ***entering person***) is intending to enter land under an entry order; and

(b) an occupier is present on the land.

(2) Before entering the land, the entering person must do or make a reasonable attempt to—

(a) identify himself or herself to the occupier; and

(b) give the occupier a copy of the entry order; and

(c) tell the occupier that the entering person is permitted by the entry order to enter the land.

577 Duty to avoid damage

In exercising a power under an entry order, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

578 Notice of damage

(1) If a person who enters land under an entry order damages the land or something on the land, the person must, as soon as practicable, give written notice of the damage to—

(a) the owner of the land; and

(b) if the owner is not the occupier of the land—the occupier; and

(c) the administering authority.

(2) However, if for any reason it is not practicable to comply with subsection (1), the person must—

(a) leave the notice at the place where the damage happened; and

(b) ensure it is left in a conspicuous position and in a reasonably secure way.

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(3) The notice must state—

(a) particulars of the damage; and

(b) that the person who suffered the damage may claim compensation under section 579 from the person who obtained the entry order.

579 Compensation

(1) This section applies if a person (the ***responsible person***) who, under this Act, must comply with an environmental requirement, enters, or authorises someone else to enter, land to which the requirement relates to comply with the requirement.

(2) Compensation is payable from the responsible person to any owner or occupier of the land for any compensatable effect the owner or occupier suffers because of—

(a) the entry; or

(b) work conducted in relation to the land to comply, or purport to comply, with the environmental requirement.

(3) However, compensation is not payable under subsection (2)(b) if the work was conducted by someone other than the responsible person and the responsible person did not authorise the other person to conduct the work.

(3A) If the land is a licence area under the *Forestry Act 1959*—

(a) the plantation licensee or plantation sublicensee, as defined under that Act, for the licence area is an occupier of the land for the purposes of this section; and

(b) compensation is payable as provided under this section to the plantation licensee or plantation sublicensee as occupier of the licence area and the State as owner of the State forest of which the licence area forms part in the proportions decided by a court of competent jurisdiction.

(4) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction,

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including, for example, in an application under any of the following provisions to which the responsible person and the owner or occupier are parties—

(a) the Mineral Resources Act, section 281 or 283B;

(b) the *Petroleum Act 1923*, section 79R;

(c) the P&G Act, section 533;

(d) the GHG storage Act, section 321;

(e) the Geothermal Act, section 256.

(5) A court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(6) In this section—

compensatable effect means all or any of the following in relation to the land—

(a) deprivation of possession of its surface;

(b) diminution of its value;

(c) diminution of the use made, or that may be made, of the land or any improvement on it;

(d) severance of any part of the land from other parts of the land or from other land that the owner or occupier owns;

(e) any other cost or loss arising from the work.

enter includes an entry with the consent of the owner or occupier.

owner includes—

(a) for land under the *Land Act 1994* for which there are trustees—the trustees; or

(c) for land that, under the *Aboriginal and Torres Strait Islander Land Holding Act 2013*, is lease land for a 1985 Act granted lease or a new Act granted lease—the lessee; or

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(d) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the ***NCA***) for which there are trustees—

(i) if, under the NCA, the park or reserve has trustees whose powers are not restricted—the trustees; or

(ii) otherwise—the chief executive of the department in which the NCA is administered; or

(e) the State, for land that is any of the following—

(i) unallocated State land;

(ii) a reserve under the *Land Act 1994* for which there is no trustee;

(iii) a national park (scientific), national park, national park (Aboriginal land), national park (Torres Strait Islander land) or forest reserve under the NCA;

(iv) a State forest or timber reserve under the *Forestry Act 1959*;

(vi) a State-controlled road.

Part 4A Validation

579A Validation of amendment of environmental authority MIM800098402

(1) This section applies to the amendment application made on 6 April 2005 for environmental authority (mining lease) number MIM800098402.

(2) The Minister's decision made on 8 March 2007 to grant the application is taken to have been validly made under chapter 5.

(3) The environmental authority as amended under the decision is taken to have been issued under chapter 5 on 22 March 2007.

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Part 4B Protocols and standards

579B Protocols

(1) A ***protocol*** is a procedure to be followed in—

(a) developing or carrying out a monitoring program; or

(b) taking samples; or

(c) making tests or measurements; or

(d) preserving or storing samples; or

(e) performing analyses on samples; or

(f) performing statistical analysis of the results of sample analyses and interpreting the results of the analyses; or

(g) reporting the results and interpretation of the analyses; or

(h) developing or applying a predictive model; or

(i) carrying out a risk assessment to predict or estimate the risk of adverse effects of contamination on human health or another part of the environment; or

(j) assessing the toxic characteristics of an element, compound or combination of compounds.

(2) If this Act provides that, in a particular case, a thing is to be done under a protocol, without identifying a particular protocol, then the thing must be done under—

(a) a protocol of the department that the department publishes and makes available for inspection by members of the public; or

(b) if there is no protocol mentioned in paragraph (a) that applies to the case—a protocol issued, before the commencement of this section, by the Australian and New Zealand Environment Conservation Council; or

(c) if there is no protocol mentioned in paragraph (a) or (b) that applies to the case—a protocol under an Australian

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Standard or joint Standards Australia and Standards New Zealand standard; or

(d) if there is no protocol mentioned in paragraphs (a) to (c) that applies to the case—a protocol issued by a Ministerial Council established by the Council of Australian Governments; or

(e) if there is no protocol mentioned in paragraphs (a) to (d) that applies to the case—a protocol of an entity other than the department that the department publishes and makes available for inspection by members of the public.

579C Prescribed standards

A reference in a provision of this Act to a ***prescribed standard*** is a reference to an Australian Standard, or joint Standards Australia and Standards New Zealand standard, prescribed under a regulation for the provision.

Part 4C Confidentiality of information

579D Confidentiality of information—generally

(1) This section applies to a person who—

(a) is, or has been, any of the following—

(i) the chief executive;

(ii) an authorised person;

(iii) a public service employee;

(iv) a local government;

(v) an officer or employee of a local government;

(vi) a person to whom an entity mentioned in subparagraph (iv) or (v) has subdelegated, under this Act, a function or power delegated to the entity under this Act; and

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(b) obtains confidential information about another person in administering, or performing functions or exercising powers under, this Act.

(2) However, this section does not apply to a person mentioned in subsection (1)(a) to the extent section 318U applies to the person in relation to the confidential information.

(3) The person must not disclose the information to anyone else, or use the information, other than under this section.

Maximum penalty—100 penalty units.

(4) The person may disclose or use the confidential information—

(a) to the extent the disclosure or use is—

(i) necessary for the administration of this Act or to perform the person's functions or exercise the person's powers under this Act; or

(ii) otherwise required or permitted under this Act or another law; or

(b) with the consent of the person to whom the information relates; or

(c) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal.

(5) In this section—

***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—

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(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.

Part 4D Exchange of information

579E Exchange of information with relevant entity

(1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant entity for the purposes of sharing or exchanging information—

(a) held by the chief executive or the relevant entity; or

(b) to which the chief executive or the relevant entity has access.

(2) An information-sharing arrangement may relate only to information that helps—

(a) the chief executive or an authorised person in the administration of, or the performance of functions or exercise of powers under, this Act; or

(b) the relevant entity, or a person employed or engaged by the entity, in the administration of, or the performance of functions or exercise of powers under, a law of the State, another State or the Commonwealth.

(3) Under an information-sharing arrangement, the chief executive and the relevant entity are, despite another Act or law, authorised to—

(a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and

(b) disclose information to the other party.

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(4) However, the information may be used by the chief executive or the relevant entity only for the purpose for which it was given under the arrangement.

(5) In this section—

relevant entity means—

(a) the chief executive of a department; or

(b) a local government; or

(c) an entity of, or representing, the Commonwealth or another State.

Part 5 Regulations

580 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about any of the following matters—

(a) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, the recovery of unpaid amount of fees, and the exemption from payment of fees or the waiver of fees;

(b) the records to be kept and returns to be made by persons and the inspection of the records;

(c) the types of tests and monitoring programs to be conducted by holders of environmental authorities;

(d) the types of plant or equipment that may be used for environmentally relevant activities and the way in which the plant or equipment is to be installed, operated and maintained;

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(e) help, access and facilities to be provided to authorised persons by persons for inspections, examinations, tests and measurements for this Act;

(f) the taking, preserving and transporting of samples and the making of inspections, examinations, tests, measurements and analyses for this Act, and the proof of them;

(g) setting standards, controls or procedures for the manufacture, generation, sale, use, transportation, storage, treatment or disposal of a contaminant, including waste;

(h) the removal, collection, transport, deposit, storage or disposal of waste;

(i) the qualifications or licence required by a person engaged in carrying out an environmentally relevant activity, and the approval of training courses to provide the qualifications or licence;

(j) environmental impact assessments, reports, statements or studies;

(k) requirements for EISs or the EIS process to allow—

(i) the process to be accredited under the Commonwealth Environment Act; or

(ii) the making of a bilateral agreement; or

(iii) the State to meet its obligations under a bilateral agreement;

(l) litter;

(m) the keeping of the environmental management register and contaminated land register, including, for example, the information to be included in the registers and made available to persons searching the registers;

(n) the carrying out of environmental audits;

(o) requirements for environmental audit reports;

(p) audit statements;

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(q) financial assurance;

(r) a matter relating to an environmental value, other than a matter mentioned in this Act, that must be considered to decide an application relating to an activity that adversely affects, or may adversely affect, the environmental value;

(s) protecting an environmental value by requirements for labelling particular products.

(3) Without limiting subsection (2)(a), a regulation may prescribe fees by reference to—

(a) factors related to the quantity or quality of contamination caused or likely to be caused by the persons liable to pay the fees, or a score, assigned by the regulation to an activity to which the fees relate, that reflects the factors; or

(b) other factors.

(4) Also, a regulation may prescribe the following—

(a) assessment benchmarks for the Planning Act for the assessment of a prescribed ERA under that Act, other than an assessment carried out by the planning chief executive;

(b) for the Planning Act, the matters a referral agency other than the planning chief executive—

(i) must or may assess a development application for a prescribed ERA against; or

(ii) must or may assess a development application for a prescribed ERA having regard to.

(5) A regulation may be made to give effect to, and enforce compliance with, a national environment protection measure made under the national scheme laws.

(6) A regulation may be made—

(a) creating offences against the regulation; and

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(b) fixing a maximum penalty of a fine of 165 penalty units for an offence against the regulation.

581 Integrated development approval system regulations and guidelines

(1) This section applies if the administering authority delegates the authority's powers under this Act to a local government.

(2) A regulation may make provision about, or empower the administering authority to make guidelines about—

(a) the policy objectives and criteria to which the local government must have regard; and

(b) the way in which the local government must exercise a delegated power, including, for example, time limits for the making of decisions; and

(c) appeals from the local government's decisions; and

(d) the cases involving the exercise of a delegated power that must be referred to the administering authority or someone else for decision, including the criteria to be applied in deciding whether a particular case must be referred; and

(e) the conditions to which an authority issued by the delegate must be subject; and

(f) the consequences of contravention of the regulation or guidelines.

(3) This section does not limit the *Acts Interpretation Act 1954*, section 27A.

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Chapter 13 Savings, transitional and related provisions

Part 1 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 1997

582 Transfer of certain land on contaminated sites register to environmental management register

(1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a probable site or restricted site.

(2) The administering authority must, on or before the commencement, record particulars of the land in the environmental management register.

(3) Any conditions on the use or management of the land recorded in the contaminated sites register continue to apply to the land as if the conditions were contained in a site management plan prepared for the land under this Act.

(4) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521, or appeal under section 531, in relation to the recording of particulars of the land in the environmental management register.

583 Transfer of certain land on contaminated sites register to contaminated land register

(1) This section applies to land that, immediately before the commencement of this section, was recorded in the contaminated sites register under the *Contaminated Land Act 1991* as being classified as a confirmed site.

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(2) The administering authority must, on or before the commencement, record particulars of the land in the contaminated land register.

(3) To remove any doubt, it is declared that the owner of land to which this section applies does not have a right of review under section 521 or appeal under section 531 in relation to the recording of particulars of the land in the contaminated land register.

Part 2 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000

Division 1 Preliminary

584 Definitions for pt 2

In this part—

additional conditions see section 603(3).

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2000*.

amendment notice see section 606(2)(a).

commencement day means the day this section commences.

condition, of a mining tenement, for division 2, see section 585.

conversion application see section 603(2).

environmental document requirement means a requirement under section 608.

existing Act means this Act as it was in force immediately before chapter 5 commenced.

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existing mining activity, under a mining tenement, means an activity carried out under the tenement on, or at any time before, the commencement day.

reminder notice see section 596(2).

special agreement Act means any of the following Acts and any agreement or lease under or mentioned in the Acts—

(a) *Alcan Queensland Pty. Limited Agreement Act 1965*;

(b) *Central Queensland Coal Associates Agreement Act 1968*;

(c) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;

(d) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;

(e) *Central Queensland Coal Associates Agreement Amendment Act 1989*;

(f) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;

(g) *Mount Isa Mines Limited Agreement Act 1985*;

(h) *Queensland Nickel Agreement Act 1970*;

(i) *Queensland Nickel Agreement Act 1988*;

(j) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;

(k) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

transitional authority, for division 4, see section 592.

transitional period means the period from the commencement day to 5 years after the commencement day.

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Division 2 Existing environmental authorities and mining activities

Subdivision 1 Preliminary

585 What is a *condition* of a mining tenement for div 2

(1) For this division, a ***condition*** of a mining tenement means any of the following—

(a) a condition of the mining tenement determined, imposed or prescribed under the Mineral Resources Act;

(b) a condition of, or stated in, the mining tenement;

(c) a commitment, obligation, requirement or undertaking under, or stated in, the most recent version of a planning document for the mining tenement.

(2) For subsection (1)(c), the most recent version of a planning document is taken to be the original planning document adopted by the MRA department, as amended from time to time by any amendment or purported amendment of the document adopted by that department.

(3) For subsection (2), a document or amendment is taken to have been adopted by the MRA department if—

(a) it has been accepted or approved under the Mineral Resources Act by the MRA Minister, the mining registrar, the MRA department or an officer of that department; or

(b) the MRA department, or an officer of that department, has accepted or approved, or purported to accept or approve, the document or amendment, whether or not the acceptance or approval was required by, or could lawfully have been made under, the Mineral Resources Act.

(4) In this section—

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Mineral Resources Act means that Act as in force from time to time before the commencement day.

MRA department means the department through which the Mineral Resources Act is administered.

planning document, for a mining tenement, means—

(a) if the mining tenement is a mining claim—the outline under the Mineral Resources Act, section 61(1)(j)(iv) for the mining claim; or

(b) if the mining tenement is an exploration permit—the statement under the Mineral Resources Act, section 133(f)(i) specifying a description of the program of work for the permit; or

(c) if the mining tenement is a mineral development licence—the statement under the Mineral Resources Act, section 183(1)(m) containing proposals for the licence mentioned in that paragraph; or

(d) if the mining tenement is a mining lease—

(i) any environmental management overview strategy for the lease; and

(ii) either—

(A) any plan of operations for the lease under the Mineral Resources Act, part 7; or

(B) if there is no plan of operations in force for the lease immediately before the commencement day—the most recent expired plan of operations for the lease under the Mineral Resources Act, part 7.

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Subdivision 2 Existing authorities for mining activities

586 Existing authority becomes an environmental authority (mining activities)

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

(a) an environmental authority is in force; and

(b) the authority was for, or included, a mining activity.

(2) On the commencement day, the authority, is taken to be an environmental authority (mining activities).

(3) Chapter 5 applies to the authority, subject to division 4.

586A Existing authority becomes an environmental authority (mining activities)

(1) This section applies if, on 1 January 2001—

(a) an environmental authority had been issued; and

(b) the authority was for, or included, a mining activity; and

(c) the authority could not take effect until a mining tenement was granted.

(2) From the day the tenement was or is granted, the authority is taken to be an environmental authority (mining activities).

(3) Chapter 5 applies to the authority, subject to division 4.

587 Conditions of environmental authority

(1) The conditions of an environmental authority that, under section 586 or 586A, is taken to be an environmental authority (mining activities) are as follows—

(a) the conditions of the authority immediately before the commencement day;

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(b) each condition of a relevant mining tenement that, had an environmental authority (mining activities) been granted for the relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities);

(c) any financial assurance condition imposed on the authority under section 598;

(d) another condition prescribed under a regulation.

(2) If under subsection (1)(b) a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

(3) Subsection (2) applies despite the Mineral Resources Act.

Subdivision 3 Existing mining activities without environmental authority

588 New environmental authority (mining activities) for existing activities

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

(a) a person holds a mining tenement; and

(b) there is no environmental authority in force for any mining activity authorised under the mining tenement.

(2) On the commencement day, the person, is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenement that, immediately before the commencement day, were level 2 environmentally relevant activities.

(3) However, if the mining tenement was part of a mining project, the person is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenements that form the project.

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(4) Chapter 5 applies to the authority, subject to division 4.

589 Conditions of environmental authority

(1) The conditions of an environmental authority (mining activities) under section 588 are—

(a) each condition of a relevant mining tenement that would reasonably be expected to be a condition of the authority; and

(b) any financial assurance condition imposed on the authority under section 598; and

(c) another condition prescribed under a regulation.

(2) If, under subsection (1)(a), a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

(3) Subsection (2) applies despite the Mineral Resources Act.

Division 3 Unfinished applications

590 Procedure if certificate of application issued and conditions decided

(1) The existing Act applies to an environmental authority application if, before the commencement day—

(a) a person applied for a mining tenement and an environmental authority in relation to the tenement; and

(b) a certificate of application for the mining tenement application was endorsed by the mining registrar; and

(c) the administering authority has decided conditions for the environmental authority; and

(d) the mining tenement has not been granted and the environmental authority has not been issued.

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(2) An environmental authority issued by applying the existing Act becomes an environmental authority (mining activities) immediately after it is issued.

(3) However, despite any provision of the existing Act, the conditions of the environmental authority must only be—

(a) the decided conditions; and

(b) any condition that—

(i) under the Mineral Resources Act, would have been imposed on a relevant mining tenement had the amending Act not been enacted; and

(ii) had an environmental authority (mining activities) been granted for each relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities); and

(c) any financial assurance condition imposed on the authority under section 598.

(4) Chapter 5 applies to the authority, subject to division 4.

(5) In this section—

certificate of application means a certificate of application under the Mineral Resources Act, section 64 or 252, as in force immediately before the commencement day.

591 Procedure for other unfinished applications

(1) This section applies if—

(a) before the commencement day, a person applied for a mining tenement; and

(b) the mining tenement has not been granted; and

(c) an environmental authority application in relation to the mining tenement is not an application to which, under section 590(1), the existing Act applies.

(2) The environmental authority application is taken to have been made on the commencement day.

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(3) Chapter 5 applies to the application.

(4) However, the following do not apply—

(a) a time requirement under that chapter for the administering authority to—

(i) make an assessment level decision; or

(ii) take a step for deciding the application; or

(iii) decide the application or make a decision about the application;

(b) sections 169 and 182.

Division 4 Transitional authorities for mining activities

Subdivision 1 Preliminary

592 Meaning of *transitional authority* for div 4

(1) For this division, a ***transitional authority*** means—

(a) an existing environmental authority that, under section 586 or 586A, is taken to be an environmental authority (mining activities); or

(b) a new environmental authority (mining activities) that, under section 588, is taken to be held by a person; or

(c) an environmental authority (mining activities) if, under section 590(1), the existing Act applied to the application for the authority.

(2) However, a transitional authority under subsection (1) ceases to be a transitional authority if it is—

(a) amended under subdivision 3; or

(b) transferred.

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Note—

See also subdivision 3 (Amendment and consolidation of transitional authorities).

(3) Subsection (2) does not affect the authority continuing to be an environmental authority (mining activities) after it ceases to be a transitional authority.

Subdivision 2 Special provisions for transitional authorities

593 Transitional authority taken to be non-code compliant

A transitional authority is taken to be a non-code compliant authority under chapter 5, issued for a level 1 mining project.

594 Limited application of s 426 for transitional authority

(1) Section 426 does not apply to a person carrying out an existing mining activity under a mining tenement that is not authorised under a transitional authority if the holder of a transitional authority has—

(a) made a relevant amendment application and the application has not been decided; or

(b) given the administering authority notice of the activity (***activity notice***) and no more than 30 days have passed since the notice was given.

(2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.

(3) An activity notice must state—

(a) the mining tenement under which the existing activity is being carried out; and

(b) the nature of the activity; and

(c) that the activity is not authorised under the conditions of the transitional authority.

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(4) To remove any doubt, it is declared that this section does not limit the application of sections 430 and 431 to the transitional authority.

(5) In this section—

relevant amendment application means an application to amend the transitional authority that, if granted, would allow the carrying out of the activity under the authority.

595 Requirement to apply to amend, surrender or transfer transitional authority

(1) The holder of a transitional authority must, within the required period, make in relation to the authority—

(a) a conversion application; or

(b) an amendment, surrender or transfer application under chapter 5.

(2) Also, if the holder does not also hold a relevant mining tenement, the holder must, on the happening of the earlier of the following, make a surrender application or an application under section 607 for the authority—

(a) the replacement or amendment, under section 235, of any plan of operations for the authority;

(b) 90 days before the transitional period ends.

(3) In this section—

required period means—

(a) if the person is, under section 588, taken to hold the authority—6 months after the commencement day; or

(b) otherwise—the transitional period.

596 Notice by administering authority to amend, surrender or transfer transitional authority

(1) This section applies if the holder of a transitional authority does not make an application required under section 595.

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(2) The administering authority may, by written notice (a ***reminder notice***), require the holder to make the application within a fixed period of at least 10 business days.

(3) The reminder notice must state the following—

(a) the application the holder is required to make under section 595;

(b) the period fixed for making the application;

(c) reasons for the decisions to make the requirement and to fix the period;

(d) the review or appeal details for the decisions.

597 Consequences of failure to comply with reminder notice

(1) A person to whom a reminder notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) The failure to comply with the reminder notice is, for applying chapter 5, part 12 to the transitional authority, taken to be an event mentioned in section 293(2).

598 Financial assurance for transitional authority

(1) This section applies if, under the Mineral Resources Act, security has been deposited or required in relation to a relevant mining tenement for a transitional authority.

(2) A condition is taken to have been imposed, under section 364, on the authority that the authority holder must give the administering authority financial assurance for each relevant mining tenement.

(3) If the security has been deposited under the Mineral Resources Act for a relevant mining tenement, the requirement under the condition to give the financial assurance is taken to have been complied with for the tenement.

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(4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 364(1)(a) and (b) in relation to the transitional authority.

(5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.

(6) For section 364(1), the form of the financial assurance for each relevant mining tenement is taken to have been required in the same form as each security given or required for the tenement.

(7) However, the financial assurance 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.

(8) The amount of financial assurance for each relevant mining tenement is taken to have been decided under section 364(3) as the lesser of the following—

(a) the amount of security given or required for each relevant mining tenement;

(b) any amount the administering authority decides would have been the amount under section 364(3) for the financial assurance had the amount been decided on the commencement day.

(9) Section 365 and chapter 11, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).

599 Effect of financial assurance on security

(1) The financial assurance condition under section 598 only affects a security to the extent provided under that section.

(2) Without limiting subsection (1), section 598 does not affect or change—

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(a) the security as a security under the Mineral Resources Act; or

(b) the matters for which the security was given under that Act; or

(c) the enforcement of the security under that Act, as amended by the amending Act.

(3) Section 598, or any thing done under it, does not—

(a) discharge a security; or

(b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or

(c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

(a) the advice is taken to have been obtained; and

(b) the consent or notice is taken to have been given.

600 Plan of operations

(1) This section applies if a transitional authority is an environmental authority (mining lease).

(2) If a plan of operations for a relevant mining lease is in force under the Mineral Resources Act immediately before the commencement day, the plan—

(a) is taken to be the plan of operations for the transitional authority submitted under section 233; but

(b) continues in force only until the earlier of the following—

(i) the end of the period that the plan would, other than for the amending Act, have been in force under the Mineral Resources Act;

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(ii) the plan is replaced under section 235.

(3) If there is no plan of operations in force for a relevant mining lease immediately before the commencement day, the most recent expired plan of operations under the Mineral Resources Act for the lease—

(a) is taken to be the plan of operations for the transitional authority submitted under section 233; but

(b) continues in force only until 6 months after the commencement day.

(4) Section 540(1)(e)(iv) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for an authority.

601 Annual fee and return for first year of transitional period

(1) This section applies to the holder of a transitional authority, instead of section 316, for the first year of the transitional period.

(2) The holder must, unless the holder has a reasonable excuse, do the following on or before the end of the first year—

(a) pay the administering authority the appropriate annual fee, other than in a circumstance prescribed under a regulation for this paragraph; and

(b) give the authority an annual return in the approved form.

Maximum penalty—100 penalty units.

(3) The administering authority may recover, as a debt, a fee required to be paid under this section that has not been paid.

(4) This section does not affect the application of section 316 for the holder or the transitional authority for any period other than the first year of the authority.

602 Anniversary day for certain transitional authorities

(1) The anniversary day for a transitional authority is the commencement day if—

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(a) under section 588, a person is taken to hold the authority; or

(b) the authority was a level 2 approval under the existing Act.

Note—

For other transitional authorities, see schedule 4, definition *anniversary day*.

(2) If a transitional authority ceases to be a transitional authority, but becomes another type of environmental authority (mining activities), the anniversary day for the environmental authority (mining activities) is taken to be the day the authority ceased to be a transitional authority.

Subdivision 3 Amendment and consolidation of transitional authorities

603 Application to convert transitional authority to environmental authority for a level 2 mining project

(1) This section applies despite chapter 5, part 8.

(2) A transitional authority holder who holds each relevant mining tenement may apply (a ***conversion application***) to the administering authority to convert the transitional authority to either of the following under chapter 5—

(a) a code compliant authority;

(b) a non-code compliant authority for a level 2 mining project.

(3) If the application is for a non-code compliant authority for a level 2 mining project, it may also request that conditions (***additional conditions***) other than the relevant standard environmental conditions be imposed on the authority.

603A Requirements for conversion application

A conversion application must—

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(a) be in the approved form; and

(b) state the type of environmental authority (mining activities) under section 603(2) to which the transitional authority is proposed to be converted; and

(c) if the application is for a code compliant authority—certify that all mining activities proposed to be carried out under it comply with the criteria prescribed under section 151(2)(a) for the stated type of environmental authority to be a code compliant authority under chapter 5; and

(d) if the application is for a non-code compliant authority for a level 2 mining project—certify that the applicant can, in carrying out the relevant mining activities for the converted authority, comply with—

(i) the relevant standard environmental conditions for the stated type of environmental authority; or

(ii) the relevant standard environmental conditions and any additional conditions requested; and

(e) be accompanied by the fee prescribed under a regulation.

603B Automatic conversion for particular applications

(1) This section applies on the making of a conversion application if it complies with section 603A.

(2) If the application is for a code compliant authority, the relevant transitional authority becomes a code compliant authority under chapter 5.

(3) If the application is for a non-code compliant authority for a level 2 mining project and no additional conditions are requested in the application, the relevant transitional authority becomes a non-code compliant authority for a level 2 mining project.

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603C Deciding application if additional conditions requested

(1) This section applies if the conversion application is for a non-code compliant authority for a level 2 mining project and additional conditions are requested in the application.

(2) The administering authority must, within 10 business days after it receives the application, decide whether—

(a) to grant the application; and

(b) if it decides to grant—to impose the additional conditions.

(3) However, an additional condition may be imposed only if the administering authority considers—

(a) the condition is necessary or desirable; and

(b) that, if the condition is imposed, the proposed non-code compliant authority would still be for a level 2 mining project.

(4) In making the decisions, the administering authority must consider the criteria mentioned in section 173(2).

(5) On, the granting of the application, the relevant transitional authority is taken to be a non-code compliant authority for a level 2 mining project.

(6) If additional conditions are imposed on the non-code compliant authority, the administering authority must, within 10 business days after the granting of the application—

(a) amend the non-code compliant authority to include the conditions; and

(b) record particulars of the amendment in the appropriate register; and

(c) give the applicant a copy of the amended non-code compliant authority.

604 Other amendment applications

(1) This section applies if an application, other than a conversion application, is made to amend a transitional authority.

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(2) Chapter 5, part 8, applies to the application.

(3) However, chapter 5, part 6, division 6, does not apply to the application if—

(a) the activities authorised under each relevant mining tenement have not changed since the commencement day; and

(b) no application has been made to change the activities authorised under any relevant mining tenement.

605 Additional grounds for amendment by administering authority

For applying section 292 for a transitional authority, the following grounds apply, as well as the grounds under section 292(2)—

(a) the ending of the transitional period;

(b) the administering authority can not, by applying section 587 or 589, work out the conditions of the transitional authority;

(c) a condition of the transitional authority under section 587 or 589 creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;

(d) if the transitional authority is an environmental authority (mining lease)—the authority holder submits or amends a plan of operations for the authority;

(e) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority.

606 Ministerial power to amend

(1) This section applies to an environmental authority (mining activities) that is, or has been, a transitional authority.

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(2) During the transitional period the Minister may amend the authority if the Minister—

(a) gives the environmental authority holder a written notice (an ***amendment notice***) stating—

(i) the proposed amendment; and

(ii) the Minister's reasons for the amendment; and

(iii) that the holder may, within a stated period of at least 10 business days, make written representations to show why the amendment should not be made; and

(b) considers any written representations made by the holder within the stated period.

(3) The administering authority must, within 10 business days after the Minister decides to amend the environmental authority—

(a) make the amendment; and

(b) give the holder a copy of the amended environmental authority; and

(c) record particulars of the amendment in the appropriate register.

(4) If the Minister gave an amendment notice, but decided not to make the proposed amendment, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

607 Consolidation of conditions for same mining project

(1) This section applies—

(a) if more than 1 person holds a transitional authority for the same mining project; and

(b) despite chapter 5.

(2) A person who holds a transitional authority for the project, may apply to the administering authority to—

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(a) amend any environmental authority (mining activities) held by a stated holder of a relevant mining tenement to include the conditions of the applicant's transitional authority; and

(b) surrender the applicant's transitional authority.

(3) The application must—

(a) be in the approved form; and

(b) if the stated mining tenement holder is not the applicant—be accompanied by the tenement holder's written consent.

(4) The administering authority must, within 10 business days after it receives the application, decide either to grant or refuse it.

(5) If the authority decides to grant the application, it must within 10 business days after the decision is made—

(a) amend the stated mining tenement holder's environmental authority (mining activities) to give effect to the amendment; and

(b) record the surrender in the appropriate register; and

(c) give the mining tenement holder a copy of the amended authority.

(6) The amendment takes effect on the day of the amendment or a later day stated in the amended authority.

(7) If the authority decides to refuse the application, it must within 10 business days after the decision is made, give each applicant an information notice about the decision.

(8) This section does not limit the authority's power to amend an environmental authority (mining activities) under chapter 5, part 12 or section 605.

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Subdivision 4 Environmental management plan requirements

608 Environmental management plan may be required

(1) This section applies if a transitional authority is—

(a) an environmental authority (exploration); or

(b) an environmental authority (mineral development); or

(c) an environmental authority (mining lease).

(2) During the transitional period, the administering authority may require the holder of the transitional authority to submit an environmental management plan to it.

(3) However, the requirement may be given to the holder only by a written notice—

(a) stating the following—

(i) the holder's name;

(ii) the transitional authority;

(iii) the requirement;

(iv) a reasonable period of at least 28 days for the requirement to be complied with; and

(b) that is accompanied by, or includes, an information notice about the decision to make the requirement.

(4) An environmental management plan submitted under this section is taken to be the submitted EM plan for the transitional authority.

609 Consequence of failure to comply with requirement

(1) If a person fails to comply with an environmental document requirement for a transitional authority, section 293 applies for the transitional authority as if—

(a) the failure was an event mentioned in section 293(2); and

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(b) the reference to cancellation or suspension in section 293(1) is a reference only to suspension.

(2) Subsection (1) does not prevent the administering authority deciding to amend the transitional authority under chapter 5, part 12.

Division 5 Transitional provisions other than for mining activities

610 Application of div 5

This division applies for an environmental authority, or an application for an environmental authority, under the existing Act, other than for a mining activity.

611 Unfinished applications under existing Act

(1) An application for a licence under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (without development approval) under chapter 4, part 3, division 2, subdivision 1.

(2) An application for a level 1 approval under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 4, part 4.

(3) An application for a licence under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (with development approval) under chapter 4, part 3, division 1.

(4) An application for a level 1 approval under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the

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commencement day to be a conversion application under chapter 4, part 4.

(5) An application for a development approval under chapter 3, part 4B, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application to which chapter 4, part 2 applies.

(6) An application under chapter 3 of the existing Act to amend an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be an amendment application under chapter 4, part 5.

(7) An application under chapter 3 of the existing Act to transfer an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be a transfer application under chapter 4, part 6.

612 Environmental authorities under existing Act

(1) A provisional licence in force under section 47 of the existing Act is taken on the commencement day to be a provisional licence issued on the same day as the day the provisional licence under section 47 was issued.

(2) A licence in force under the existing Act is taken on the commencement day to be a licence under this Act as amended by the amending Act.

(3) A level 1 approval in force under the existing Act is taken on the commencement day to be a level 1 approval under this Act as amended by the amending Act.

(4) A level 2 approval in force under the existing Act is taken on the commencement day to be a level 2 approval under this Act as amended by the amending Act.

(5) This section does not limit the *Environmental Protection Regulation 1998*, section 73.

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Division 6 Original provisions about special agreement Acts

614 Existing Act continues to apply for special agreement Acts until div 7 commences

(1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act, other than for the insertion of section 584 and this section, had not been enacted.

(2) Subsection (1) ceases to apply when division 7 commences.

(3) Subsection (2) does not limit section 616D or 616K(2B).

Division 7 Provisions about special agreement Acts inserted under Environmental Protection and Other Legislation Amendment Act 2008

Subdivision 1 Preliminary

615 Definitions for div 7

In this division—

commencement means the commencement of this section.

condition, under a special agreement Act, see section 616.

current Act means this Act as in force from time to time.

new authority application see section 616N.

pre-amended MRA means the Mineral Resources Act—

(a) as it was in force immediately before 1 January 2001; and

(b) as it has applied under section 735 of that Act.

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relevant transitional authority see section 616N.

SAA environmental authority (mining) means an environmental authority for an SAA mining activity under the existing Act as it has applied under section 614(1).

SAA mining activity means a mining activity provided for under a special agreement Act, or to which a special agreement Act applies.

transitional authority (SAA) see section 616B(3).

616 What is a *condition* under a special agreement Act

(1) For this division, a ***condition*** under a special agreement Act means any of the following—

(a) a condition of a mining lease or special lease provided for under the special agreement Act and determined, imposed or prescribed under the pre-amended MRA or the repealed *Land Act 1962*;

Note—

For special leases, see the *Land Act 1994*, section 476 (Existing leases continue).

(b) a condition of, or stated in, a mining lease, special lease or agreement provided for under the special agreement Act;

(c) a requirement under, or stated in, the most recent version of the following planning documents for a mining lease or special lease provided for under the special agreement Act—

(i) for a mining lease provided for under the *Mount Isa Mines Limited Agreement Act 1985*—the relevant provisions of a mining plan approved under part 2 of the agreement defined under that Act relating to the lease;

(ii) for a lease mentioned in this subsection, other than a lease mentioned in subparagraph (i), each of the following—

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(A) an environmental management overview strategy, however called, for the lease;

(B) a plan of operations for the lease under part 7 of the pre-amended MRA or, if there is no plan of operations in force for the lease immediately before the commencement, the most recently expired plan of operations for the lease under part 7 of the pre-amended MRA.

(2) For deciding, under subsection (1)(c), the most recent version of a planning document mentioned in subsection (1)(c)(ii), section 585(2) and (3) applies as if—

(a) a reference to the Mineral Resources Act were a reference to the pre-amended MRA; and

(b) a reference to the MRA department were a reference to the department through which the pre-amended MRA was administered.

(3) In this section—

requirement includes a commitment, obligation or undertaking.

616A EPA provisions prevail

(1) Subsection (2) applies if there is an inconsistency between—

(a) a provision of the current Act (an ***EPA provision***); and

(b) a provision of a special agreement Act.

(2) To remove any doubt, it is declared that the EPA provision prevails to the extent of the inconsistency.

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Subdivision 2 Conversion of SAA environmental authorities (mining)

616B Conversion to transitional authority (SAA)

(1) This section applies to an SAA environmental authority (mining) that was in force immediately before the commencement.

(2) On the commencement, the SAA environmental authority (mining) is taken to be an environmental authority (mining lease).

(3) An SAA environmental authority (mining) that is taken to be an environmental authority (mining lease) under subsection (2) is a ***transitional authority (SAA)***.

(4) Chapter 5 and section 316 apply to a transitional authority (SAA), subject to subdivisions 4 to 7.

616C Conditions of transitional authority (SAA)

The conditions of a transitional authority (SAA) for an SAA mining activity are all of the following—

(a) the conditions of the authority immediately before the commencement;

(b) each condition under the special agreement Act that, had an environmental authority (mining activities) been granted for the SAA mining activity on the commencement, would reasonably be expected to have been a condition of the environmental authority (mining activities), having regard to the conditions that—

(i) under section 210, may or must be included in a draft environmental authority; or

(ii) under section 305, may be imposed on an environmental authority (mining activities);

(c) the condition about financial assurance imposed under section 616I.

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616D Changing conditions of transitional authority (SAA)

(1) Subsection (2) applies for changing a condition of a transitional authority (SAA).

(2) Subject to subsection (3), the special agreement Act to which the transitional authority (SAA) relates and the existing Act continue to apply for changing the condition of the authority as if the amending Act, other than for the insertion of section 584, had not been enacted.

Note—

See also the Mineral Resources Act, section 735(3) and (4).

(3) Subsection (2)—

(a) does not apply for making or deciding an application under section 616H(1)(b) to amend the authority; and

(b) does not limit subdivision 6; and

(c) stops applying if the authority is amended under subdivision 6 and the amended authority has taken effect under the current Act.

Subdivision 3 Unfinished applications

616E Procedure for unfinished applications

(1) This section applies if—

(a) before the commencement, a person applied under the existing Act for, or in relation to, an SAA environmental authority (mining) for a mining lease provided for under a special agreement Act; and

(b) the application has not been decided.

(2) Subject to subsections (3) to (7)—

(a) the application is taken to have been made on the commencement; and

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(b) chapter 5 applies to the application, with necessary changes, as if it were a non-code compliant application for a level 1 mining project.

(3) If the application was accompanied by an environmental management overview strategy under the pre-amended MRA, section 245, the strategy is taken to be an environmental management plan submitted by the applicant under section 201.

(4) If a certificate of application for the mining lease was endorsed by the mining registrar under the pre-amended MRA, section 252, the person is taken to have given and published an application notice under section 211 for the application.

(5) If the person gave an environmental impact statement under the pre-amended MRA, section 264, the EIS process is taken to have been completed under section 60.

(6) If an objection was lodged with the mining registrar under the pre-amended MRA, section 260, and not heard by the tribunal under that Act, the objection is taken to be a properly made objection under section 217.

(7) If the tribunal made a recommendation under section 269 of the pre-amended MRA relating to an environmental matter, an objections decision on the same terms as the recommendation is taken to have been made under section 222.

Editor's notes—

1 pre-amended MRA, sections 252 (Certificate of application etc.), 245 (Application for grant of mining lease), 260 (Objection to application for grant of mining lease), 264 (What happens after environmental impact statement is prepared?) and 269 (Tribunal's recommendation on hearing)

2 sections 60 (When process is completed), 201 (Environmental management plan required), 211 (Public notice of application), 217 (Acceptance of objections) and 222 (Nature of objections decision) of the Act

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Subdivision 4 Special provisions for transitional authorities (SAA)

616F Transitional authority (SAA) taken to be non-code compliant

A transitional authority (SAA) is taken to be a non-code compliant authority under chapter 5, issued for mining activities for a level 1 mining project.

616G Limited application of s 426 for transitional authority (SAA)

(1) Section 426 does not apply to a person carrying out an SAA mining activity that is not authorised under a transitional authority (SAA) if—

(a) the person was carrying out the activity immediately before the commencement; and

(b) either—

(i) the holder of the authority has made a relevant amendment application or a relevant new application about the activity under the authority and the application has not been decided; or

(ii) the holder of the authority has given the administering authority notice of the activity (an ***activity notice***) and no more than 30 days have passed since the notice was given.

(2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.

(3) An activity notice must state—

(a) the mining lease or agreement under which the activity is being carried out; and

(b) the nature of the activity; and

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(c) that the activity is not authorised under the conditions of the authority.

(4) To remove any doubt, it is declared that this section does not limit the application of sections 430 and 431 to the holder of the authority.

(5) In this section—

relevant amendment application, about an SAA mining activity under a transitional authority (SAA), means an application to amend the authority that, if granted, would allow the carrying out of the activity under the transitional authority (SAA).

relevant new application, about an SAA mining activity under a transitional authority (SAA), means an application under the current Act for an environmental authority (mining activities) for a level 1 mining project, that, if granted, would allow the carrying out of the activity under the environmental authority (mining activities).

616H Requirement to apply for new authority or amend etc. transitional authority (SAA)

(1) The holder of a transitional authority (SAA) must, within 3 years after the commencement, apply under the current Act for—

(a) an environmental authority (mining activities) for a level 1 mining project; or

(b) an amendment of the transitional authority (SAA) for converting it to an environmental authority (mining activities) for a level 1 mining project; or

(c) the surrender of the transitional authority (SAA); or

(d) the transfer of the transitional authority (SAA) to an entity other than a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act.

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Note—

If subsection (1) is not complied with, the transitional authority (SAA) ends. See section 616M.

(2) To remove any doubt, it is declared that the transfer of a transitional authority (SAA) to a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act does not constitute compliance with the obligation under subsection (1).

616I Financial assurance for transitional authority (SAA)

(1) This section applies if, under the Mineral Resources Act or a special agreement Act, security has been deposited, lodged or required in relation to a relevant mining lease for a transitional authority (SAA).

(2) A condition is taken to have been imposed, under section 364, on the authority that the authority holder must give the administering authority financial assurance for each relevant mining lease.

(3) If the security has been deposited under the Mineral Resources Act or a special agreement Act for a relevant mining lease, the requirement under the condition to give the financial assurance is taken to have been complied with for the lease—

(a) from the time the whole amount of the security has been deposited; and

(b) until the plan of operations for the lease is amended or replaced under section 235.

(4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 364(1)(a) and (b) in relation to the authority.

(5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.

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(6) The form of each security given or required to be given for a relevant mining lease is taken to be the form of the financial assurance for the lease decided under section 364(3).

(7) However, the financial assurance for the relevant mining lease 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.

(8) The amount of financial assurance for each relevant mining lease is taken to have been decided under section 364(3) as the lesser of the following—

(a) the amount of security given or required for each relevant mining lease;

(b) any amount the administering authority decides would have been the amount under section 364(3) for the financial assurance had the amount been decided on the commencement.

(9) Section 365 and chapter 11, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).

616J Effect of financial assurance on security

(1) The financial assurance condition under section 616I only affects a security to the extent provided under that section.

(2) Without limiting subsection (1), section 616I does not affect or change—

(a) the security as a security under the Mineral Resources Act or a special agreement Act; or

(b) the matters for which the security was given under the Mineral Resources Act or special agreement Act; or

(c) the enforcement of the security under the Mineral Resources Act or special agreement Act.

(3) Section 616I, or any thing done under it, does not—

(a) discharge a security; or

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(b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or

(c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

(a) the advice is taken to have been obtained; and

(b) the consent or notice is taken to have been given.

616K Plan of operations

(1) This section applies if a plan of operations for a relevant mining lease for a transitional authority (SAA) was in force under the Mineral Resources Act immediately before the commencement.

(2) The plan of operations—

(a) is taken to be the plan of operations for the authority submitted under section 233; and

(b) continues in force only until the earlier of the following—

(i) the end of the period, stated in the plan, to which the plan applies;

(ii) the plan is replaced under section 235.

(2A) Subsection (2)(a) is subject to subsection (2B) and the Mineral Resources Act, section 735(4A).

(2B) The special agreement Act to which the authority relates and the existing Act continue to apply for amending the plan of operations as if the amending Act, other than for the insertion of section 584, had not been enacted.

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(3) Section 540(1)(e)(vi) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for a transitional authority (SAA).

(4) For this section, the relevant provisions of a mining plan approved under part 2 of the agreement defined under the *Mount Isa Mines Limited Agreement Act 1985* are taken to be a plan of operations for each mining lease to which they relate.

616L First anniversary day for transitional authority (SAA)

The first anniversary day for a transitional authority (SAA) is—

(a) if the SAA environmental authority (mining) forming the basis for the transitional authority (SAA) was a licence under the existing Act—the next occurring anniversary of the anniversary day of the authority under the existing Act; or

(b) otherwise—1 year after the commencement.

616M End of transitional authority (SAA)

(1) A transitional authority (SAA) ends if—

(a) the holder of the authority does not comply with section 616H(1); or

(b) the authority is amended under subdivision 6 and the amended authority has taken effect under the current Act; or

(c) the authority is transferred under chapter 5, part 9 and the transfer has taken effect under the current Act; or

(d) the surrender of the authority is approved under the current Act; or

(e) an environmental authority (mining activities) for the SAA mining activity the subject of the transitional authority (SAA) is issued and has taken effect under the current Act.

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(2) However, despite subsection (1)(c), if a transitional authority (SAA) is transferred under chapter 5, part 9 to a wholly-owned subsidiary of the holder of the authority within the meaning of the Corporations Act, the authority does not end.

(3) To remove any doubt, it is declared that subsection (1) does not limit chapter 5, part 12.

Subdivision 5 Applications for new authorities

616N Application of sdiv 5

This subdivision applies if the holder of a transitional authority (SAA) (the ***relevant transitional authority***) makes an application under section 616H(1)(a) (the ***new authority application***) for an environmental authority (mining activities) for a level 1 mining project of which the SAA mining activity the subject of the relevant transitional authority is a part.

616O Application of current Act to new authority application

Chapter 5, parts 2 and 6 apply to the making and deciding of the new authority application, subject to sections 616P and 616Q.

616P No public notice or EIS requirement for particular new authority application

(1) This section applies for processing the new authority application if each mining activity that forms the mining project to which the application relates is authorised under the conditions of the relevant transitional authority.

(2) Sections 211 to 215, 216(1)(a), 217(1)(c), 219(4)(c) and 219(5)(a) do not apply for the application.

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(3) For applying sections 216(1), 217(1)(b) and 218(1) a reference to an entity, each entity or the entity is taken to be a reference to the applicant.

(4) For applying section 219(5)(b), the reference to each objector is taken to be a reference to the applicant.

(5) The objection period for the application starts on the day the administering authority gives the applicant a draft environmental authority and ends 20 business days after that day.

(6) Subsections (7) and (8) apply for processing the application if—

(a) no part of the application relates to a wild river area; and

(b) an EIS is not required for the application under section 162(3A).

(7) The administering authority is taken to have decided under section 162(1) that no EIS is required for the application.

(8) Section 163 does not apply for the application.

616Q Reference to State government agreement includes particular rights

(1) Subsection (2) applies to the administering authority for considering the standard criteria in making a decision under section 207 to refuse the new authority application or allow it to proceed.

(1A) If there is a current objection relating to the new authority application, subsection (2) also applies to the Land Court for considering the standard criteria under section 223 in making the objections decision for the application.

(2) The reference to a state government agreement in schedule 4, definition *standard criteria*, paragraph (c) includes a reference to—

(a) an agreement under, or mentioned in, a special agreement Act; and

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(b) the rights granted under an agreement mentioned in paragraph (a).

Subdivision 6 Amendment of transitional authorities (SAA) for conversion to new authorities

616R Application of sdiv 6

This subdivision applies if an application is made under section 616H(1)(b) to amend a transitional authority (SAA) for converting it to an environmental authority (mining activities) for a level 1 mining project.

616S Application of current Act to amendment application

Chapter 5, part 8 applies to the making and deciding of the amendment application for the transitional authority (SAA), subject to sections 616T and 616U.

616T No public notice or EIS requirement for particular amendment applications

(1) This section applies for processing the amendment application for the transitional authority (SAA) if each mining activity to which the application relates is authorised under the conditions of the authority.

(2) Chapter 5, part 6, division 6, and section 254 do not apply for the application.

(3) Subsection (4) applies if the assessment level decision for the application under section 246(1)(a) or 247(3) is that the level of environmental harm is likely to be significantly increased.

(4) The EIS decision for the application is taken to be that an EIS is not required for the proposed amendment.

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616U Reference to State government agreement includes particular rights

(1) This section applies to the administering authority for considering the standard criteria in making a decision under section 257 to grant or refuse the amendment application for the transitional authority (SAA).

(2) The reference to a state government agreement in schedule 4, definition *standard criteria*, paragraph (c) includes a reference to—

(a) an agreement under, or mentioned in, a special agreement Act; and

(b) the rights granted under an agreement mentioned in paragraph (a).

616V Consolidation of conditions for same mining project

Section 607 applies for consolidating conditions for the same mining project as if—

(a) a reference to a transitional authority were a reference to a transitional authority (SAA); and

(b) the reference to section 605 were a reference to section 616W.

Subdivision 7 Amendment of transitional authorities (SAA) other than by application

616W Additional grounds for amendment by administering authority

For applying section 292 for a transitional authority (SAA), the following grounds apply, as well as the grounds under section 292(2)—

(a) the administering authority can not, by applying section 616C, work out the conditions of the authority;

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(b) a condition of the authority under section 616C creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;

(c) the holder of the authority submits or amends a plan of operations for the authority;

(d) the amendment of the transitional authority (SAA) is necessary to prevent environmental harm not already authorised under the authority.

616X Ministerial power to amend

(1) The Minister may amend a transitional authority (SAA) if the Minister—

(a) gives the authority holder an amendment notice proposing the amendment; and

(b) considers the written representations, if any, made by the holder within the stated period in the notice.

(2) If the Minister decides to amend the authority under subsection (1), the administering authority must, within 10 business days after the decision—

(a) make the amendment proposed in the notice; and

(b) give the authority holder a copy of the amended authority; and

(c) record particulars of the amendment in the appropriate register.

(3) If the Minister gives an amendment notice under subsection (1) and decides not to make the amendment proposed in the notice, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

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Subdivision 8 Provisions for chapter 4 activities

616Y Application of sdiv 8

(1) This subdivision applies if—

(a) immediately before the commencement, an environmental authority was in force under the existing Act as it applied under section 614(1); and

(b) the authority is for a chapter 4 activity to which a special agreement Act applies.

(2) Subsection (3) applies to an activity that—

(a) is carried out under a sublease of a mining lease; and

(b) would be a chapter 4 activity if it were not carried out under a sublease of a mining lease.

(3) To remove any doubt, it is declared that the activity is a chapter 4 activity.

616Z Continuing effect of environmental authority as a registration certificate and development approval

(1) From the commencement—

(a) the environmental authority has effect as if it were a registration certificate for the activity; and

(b) the environmental authority has effect as if the holder of the authority were the registered operator for the activity; and

(c) the environmental authority has effect as if it were—

(i) if the activity would, after the commencement, be a mobile and temporary activity—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 3; or

(ii) in any other case—a development approval for a material change of use under the repealed

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Integrated Planning Act 1997, schedule 8, part 1, table 2, item 1; and

(d) any condition of the environmental authority has effect as if it were a development condition of the development approval.

(2) The conditions of the environmental authority are taken to include any condition that the administering authority is, under section 73B(2), required to impose under a regulatory requirement had it been deciding a development application for the chapter 4 activity at the commencement.

(3) This section stops applying if the environmental authority ends under section 616ZB.

616ZA Additional ground for changing or cancelling development conditions

(1) The administering authority may change or cancel a condition of the environmental authority if—

(a) the change or cancellation is necessary because the condition is no longer appropriate as a development condition of a development approval for the activity; or

(b) the condition needs to be changed or cancelled so that the administering authority, in applying section 616Z, can accurately and reliably identify the conditions of the development approval; or

(c) the conditions are otherwise unclear, uncertain or contradictory.

(2) However, the administering authority must not act under subsection (1) if the change or cancellation adversely affects the interests of the registered operator for the activity.

(3) If the condition is changed it must in substance reflect the intent of the condition as included in the environmental authority as it existed before the commencement.

(4) If the administering authority changes or cancels a condition, it must within 10 business days—

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(a) record the particulars of the change or cancellation in the appropriate register; and

(b) give the registered operator—

(i) a copy of the development conditions as applying after the change or cancellation; and

(ii) a registration certificate.

(5) In this section—

condition, of the environmental authority, does not include any condition taken to be included under section 616Z(2).

616ZB End of environmental authority

An environmental authority for a chapter 4 activity under this subdivision ends if any of the following happens—

(a) the person carrying out the activity changes;

(b) there is a material change of use of premises for the activity, as defined under the Planning Act, schedule 2, definition *material change of use*, paragraph (a) or (b);

(c) if the activity is carried out under a sublease of a mining lease—the sublease expires or is cancelled or surrendered;

(d) a development approval for the activity takes effect.

616ZC Administering authority may issue replacement documents

(1) The administering authority may give to the person carrying out the chapter 4 activity—

(a) if the activity was carried out at 1 location—a development approval for the location; or

(b) if the activity was carried out at more than 1 location and is not a mobile and temporary environmentally relevant activity—a development approval for each location; or

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(c) if the activity is a mobile and temporary environmentally relevant activity—a development approval for a mobile and temporary environmentally relevant activity.

(2) If the person carrying out the activity does not have a registration certificate for the activity, the administering authority may also give the person a registration certificate for the activity.

(3) The development approval must contain the same details about the activity and conditions for carrying out the activity as were contained in the authority or included in it under section 616Z(2).

(4) If the administering authority acts under subsection (1) or subsections (1) and (2), the administering authority must give the person carrying out the activity an information notice about the administering authority's decision to give the approval or approval and certificate.

(5) The approval or approval and certificate have effect and the environmental authority ends—

(a) if there is no appeal against the administering authority's decision under subsection (4)—from the day after the appeal period expires; or

(b) if there is an appeal against the administering authority's decision under subsection (4)—from the day after the appeal is finally decided or is otherwise ended.

Subdivision 9 Other matters

616ZCA Continuing effect of particular environmental authorities

(1) This section applies to an environmental authority that—

(a) is for a chapter 4 activity to which a special agreement Act applies; and

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(b) was a constituent part of an integrated authority under the pre-2005 Act; and

(c) was in force immediately before the commencement.

(2) To remove any doubt, it is declared that sections 619 to 621 apply, and have always applied, to the environmental authority.

(3) In this section—

pre-2005 Act means this Act as it was in force immediately before 1 January 2005.

616ZCB Validation of particular development approvals and registration certificates

(1) This section applies if, before the commencement, a development approval was issued or a registration certificate was granted for a chapter 4 activity to which a special agreement Act applies.

(2) The development approval or registration certificate is, and always has been, as valid as it would have been if section 614(1) had not been enacted.

Division 8 Miscellaneous provision

616ZD Requirement to seek advice from MRA chief executive

The requirement under section 302 applies for a decision by the Minister or the administering authority to amend an environmental authority (mining activities) under this part, unless the authority holder has agreed in writing to the amendment.

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Part 3 Validation provision for Environmental Protection and Another Act Amendment Act 2002

617 Validation of particular environmental authorities

(1) This section applies to an environmental authority issued or purporting to have been issued—

(a) on or after 1 July 1998 and before the commencement of this section; and

(b) for—

(i) a mining activity as defined in this Act when the authority was issued or purported to have been issued; or

(ii) a petroleum activity.

(2) The environmental authority is taken to be, and to always have been, valid.

Part 4 Transitional provision for Environmental Protection and Other Legislation Amendment Act 2002

618 Section 318A does not apply for transitional authority

(1) The anniversary day for an environmental authority (mining activities) that, under section 592, is a transitional authority can not be changed under section 318A.

(2) Subsection (1) ceases to apply if the authority ceases to be a transitional authority under section 592(2).

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Part 5 Transitional provisions for Environmental Protection Legislation Amendment Act 2003

619 Continuing effect of particular environmental authorities

(1) Subsection (2) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—

(a) the authority is in force immediately before the commencement of this section; and

(b) there is no development approval for the activity.

(2) From the commencement—

(a) the authority has effect as if it were a registration certificate for the activity; and

(b) the authority has effect as if the holder of the authority were the registered operator for the activity; and

(c) the authority has effect as if it were—

(i) if the activity would, after the commencement, be a mobile and temporary activity—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 3; or

(ii) in any other case—a development approval for a material change of use under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 1; and

(d) any condition of the authority has effect as if it were a development condition of the development approval; and

(e) if the authority is a provisional licence, or is for a level 2, chapter 4 activity and was granted for a stated period—the authority (including as it has effect as a

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registration certificate and as a development approval) has effect only until the end of the period for which the authority would have had effect if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

(3) Subsection (4) applies for an environmental authority for a chapter 4 activity (other than an approval mentioned in section 624(1)(b)), if—

(a) the authority is in force immediately before the commencement of this section; and

(b) there is a development approval for the activity.

(4) From the commencement—

(a) the development approval continues to have effect; and

(b) the authority has effect as if it were a registration certificate for the activity; and

(c) the authority has effect as if the holder of the authority were the registered operator for the activity; and

(d) any condition of the authority has effect as if it were a development condition of the development approval.

620 Additional ground for changing or cancelling development conditions

(1) This section applies to a condition of an environmental authority given continuing effect under section 619(2)(d) or (4)(d).

(2) The administering authority for the environmental authority may change or cancel the condition if—

(a) the change or cancellation is necessary because the condition is no longer appropriate as a development condition of a development approval for the activity; or

(b) the condition needs to be changed or cancelled so that the administering authority, in applying section 619, can accurately and reliably identify the conditions of the development approval; or

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(c) the conditions are otherwise unclear, uncertain or contradictory.

(3) However, the administering must not act under subsection (2) if the change to or cancellation of the condition adversely affects the interests of the registered operator for the activity.

(4) If the condition is changed it must in substance reflect the intent of the condition as included in the environmental authority as it existed before section 619 commenced.

(5) If the administering authority changes or cancels a condition, it must within 10 business days—

(a) record the particulars of the change or cancellation in the appropriate register; and

(b) give the registered operator—

(i) a copy of the development conditions as applying after the change or cancellation; and

(ii) a registration certificate.

621 Administering authority may issue replacement documents

(1) The administering authority may, for an activity being carried out under an environmental authority mentioned in section 619(1), give to the person carrying out the activity—

(a) if the activity was carried out at 1 location—a development approval for the location; or

(b) if the activity was carried out at more than 1 location and is not a mobile and temporary environmentally relevant activity—a development approval for each location; or

(c) if the activity is a mobile and temporary environmentally relevant activity—a development approval for a mobile and temporary environmentally relevant activity.

(2) If the person carrying out the activity does not have a registration certificate for the activity, the administering

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authority may also give the person a registration certificate for the activity.

(3) The development approval must contain the same details about the activity and conditions for carrying out the activity as were contained in the authority.

(4) If the administering authority acts under subsection (1) or subsections (1) and (2), the administering authority must give the person carrying out the activity an information notice about the administering authority's decision to give the approval or approval and certificate.

(5) The approval or approval and certificate have effect and the environmental authority is cancelled—

(a) if there is no appeal against the administering authority's decision under subsection (4)—from the day after the appeal period expires; or

(b) if there is an appeal against the administering authority's decision under subsection (4)—from the day after the appeal is finally decided or is otherwise ended.

623 Effect of commencement on level 1 approvals for particular environmentally relevant activities

(1) Subsection (2) applies to a level 1 approval for a level 1 chapter 4 activity that, under section 619, is taken to be a registration certificate.

(2) Section 316 does not apply to the registration certificate unless the administering authority gives the registered operator a notice stating the administering authority is satisfied the risk of environmental harm from carrying out the activity is no longer insignificant.

(3) In this section—

level 1 approval means a level 1 approval immediately before the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

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624 Effect of commencement on particular approvals

(1) This section applies for a person who immediately before the commencement of this section was the operator of, and was carrying out, a level 2 chapter 4 activity under—

(a) a development approval in force immediately before the commencement; or

(b) an approval that—

(i) is mentioned in—

(A) the repealed *Environmental Protection (Interim) Regulation 1995*, (the ***repealed regulation***) as in force on 1 March 1995, section 63 or 65; or

(B) the repealed regulation, as in force on 28 June 1996, section 65; and

(ii) was in force immediately before the commencement.

(1A) However, this section does not apply if the activity is authorised under an environmental authority to which section 619 applies.

(2) From the commencement, the person is, for 1 year after the commencement, taken to be the registered operator for the activity, and—

(a) for an approval mentioned in subsection (1)(a)—the approval, and any conditions of the approval, continue to have effect; or

(b) for an approval mentioned in subsection (1)(b)—the approval ceases to have effect on the first of the following to happen—

(i) the person carrying out the activity changes;

(ii) there is a material change of use of premises for the activity, as defined under the Planning Act, schedule 2, definition *material change of use*, paragraph (a) or (b);

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(iii) a development approval for the activity takes effect.

(3) The person must, within 1 year of the commencement, give the administering authority the same details the person would have to give the administering authority if the person were applying for a registration certificate.

(4) If the person complies with subsection (3), the administering authority must give the person a registration certificate.

(5) To remove any doubt, it is declared that the registration certificate does not limit or otherwise affect subsection (2)(a) or (b).

625 Effect of commencement on applications for development approvals for level 2 environmentally relevant activities

(1) Subsection (2) applies for an application for a development approval for a level 2 chapter 4 activity that had not lapsed immediately before the commencement of this section.

(2) Before carrying out the activity under the development approval, the person who proposes to carry out the activity must obtain a registration certificate.

626 Effect of commencement on particular applications in progress

(1) This section applies to—

(a) an application for an environmental authority for a chapter 4 activity not decided before the commencement of this section, including an application mentioned in section 611; or

(b) an application to amend, surrender or transfer an environmental authority for a chapter 4 activity not decided before the commencement of this section.

(2) From the commencement—

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(a) processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted; and

(b) any environmental authority granted, amended or transferred is taken to be an environmental authority to which section 619 applies.

(3) However, subsection (4) applies for an application mentioned in subsection (1) if—

(a) the administering authority, by written notice, asks the applicant to give the administering authority a stated document or information relevant to the application; and

(b) the applicant does not give the document or information to the administering authority within the time stated in the request or such other time the administering authority agrees to in writing.

(4) The application lapses at the end of the time stated in the request or agreed to.

627 Effect of commencement on development approval applications in progress

(1) Subsection (2) applies if an application for a development approval, or for an amendment of a development condition of a development approval, for a chapter 4 activity, has not been decided and has not lapsed, immediately before the commencement of this section.

(2) From the commencement, processing of the application and all matters incidental to the processing must proceed as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

628 Effect of commencement on particular actions in progress

(1) This section applies for an environmental authority mentioned in section 619.

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(2) Subsection (3) applies if, immediately before the commencement of this section, all action, that could have been taken under this Act in relation to a notice given under section 133 or 135 about the amendment, suspension or cancellation of the environmental authority, had not been taken.

(3) From the commencement, any action that had not been taken before the commencement may be taken under this Act, as amended by the *Environmental Protection Legislation Amendment Act 2003*, with necessary changes.

(4) Subsection (5) applies if, immediately before the commencement of this section, the environmental authority remained suspended.

(5) From the commencement, the environmental authority, taken under section 619 to be a registration certificate, remains suspended for the period the environmental authority would have been suspended but for the commencement of the *Environmental Protection Legislation Amendment Act 2003*.

630 Continuing operation of s 611 (Unfinished applications under existing Act)

References to provisions of this Act in section 611 continue to operate as if the *Environmental Protection Legislation Amendment Act 2003* had not been enacted.

Part 6 Transitional provisions for Petroleum and Other Legislation Amendment Act 2004

631 Financial assurance if security for related petroleum authority is monetary

(1) This section applies to an environmental authority if—

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(a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

(b) the *Petroleum Act 1923*, section 159 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 920 applies to security held for the petroleum authority.

(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority in the amount required to be transferred under either section mentioned in subsection (1)(b).

(3) The amount is taken to also be the financial assurance.

(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.

(5) On the making of the transfer, the requirement under the condition to give the financial assurance is taken to have been complied with.

632 Financial assurance if security for related petroleum authority is non-monetary

(1) This section applies to an environmental authority if—

(a) under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the environmental authority is the relevant environmental authority for a petroleum authority; and

(b) the *Petroleum Act 1923*, section 160 or the *Petroleum and Gas (Production and Safety) Act 2004*, section 921 applies to security held for the petroleum authority.

(2) A condition is taken to have, under section 364, been imposed on the environmental authority that its holder must give the administering authority financial assurance for the environmental authority.

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(3) The security mentioned in either section mentioned in subsection (1)(b) is taken to also be the financial assurance.

(4) The financial assurance is taken to be for the matters mentioned in section 364(1) in relation to the environmental authority.

(5) Subsections (3) and (4) apply despite the terms of an instrument granting the security or any other document, including, for example, a term that the security or its benefit is not transferable.

(6) The condition ends at the earlier of the following to happen—

(a) the amendment, under section 634, of the condition;

(b) the end of 12 months after the 2004 Act start day under the *Petroleum and Gas (Production and Safety) Act 2004*.

633 Effect of financial assurance on the security

(1) A condition about financial assurance imposed under this part only affects a security to the extent provided under this part.

(2) Without limiting subsection (1), section 632 does not affect or change—

(a) the security mentioned in section 632(1) as a security under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or

(b) the matters for which the security was given under that Act; or

(c) the enforcement of the security under that Act.

(3) Section 632, or any thing done under it, does not—

(a) discharge a security; or

(b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or

(c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an

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obligation or modify the operation or effect of an instrument or obligation.

(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

(a) the advice is taken to have been obtained; and

(b) the consent or notice is taken to have been given.

634 Amendment of financial assurance condition under this part

(1) The administering authority may amend a condition about financial assurance imposed under this part to require the giving of replacement financial assurance, in a form and amount decided by the authority.

(2) Section 364 applies for the amendment as if a reference in the section to the imposition of a condition requiring financial assurance were a reference to the amendment.

(3) Chapter 7, part 6, applies for the financial assurance.

Part 7 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2004

Division 1 Original provisions

Subdivision 1 Preliminary

635 Definitions for div 1

In this division—

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commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, section 32.

existing Act means this Act as in force immediately before the commencement.

new chapter 4A means chapter 4A immediately after the commencement.

old chapter 4A means chapter 4A under the existing Act.

Subdivision 2 Provisions for former integrated authorities

636 Application of sdiv 2

This subdivision applies to the constituent parts of an integrated authority that, under the existing Act, were in force immediately before the commencement.

637 Continuing status of each constituent part as an environmental authority

(1) This section—

(a) applies despite the repeal of former chapter 6, part 1; and

(b) is subject to section 638.

(2) From the commencement, each of the constituent parts continues to be an environmental authority of the type stated in the integrated authority.

(3) The repeal does not change the anniversary days of the environmental authorities.

(4) The relevant provisions of new chapter 4A or chapter 5 and chapter 6 apply to the environmental authorities.

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638 Re-issuing of environmental authorities if they do not form a single mining or petroleum project

(1) The administering authority may, at any time after the commencement, decide whether the constituent parts together form a single mining or petroleum project.

(2) If the administering authority decides the constituent parts are for different mining or petroleum projects, it may—

(a) cancel the constituent parts as environmental authorities; and

(b) issue to the former holder of the cancelled constituent parts new environmental authorities (mining activities) or environmental authorities (petroleum activities) for each of the different mining or petroleum projects.

(3) The conditions of each of the new environmental authorities must be the conditions of the cancelled constituent parts that applied to the mining or petroleum project the subject of the new environmental authority, subject to any necessary changes.

Subdivision 3 Other provisions

639 Environmental authorities under old chapter 4A

(1) A licence, other than a provisional licence, under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A for a level 1 petroleum activity.

(2) On the commencement, a provisional licence under old chapter 4A ceases to be an environmental authority.

(3) A level 2 approval under old chapter 4A in force immediately before the commencement is, on the commencement, taken to be a non-code compliant authority under new chapter 4A, for a level 2 petroleum activity.

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640 Applications in progress under old chapter 4A

(1) An environmental authority application under old chapter 4A that, immediately before the commencement, had not been decided is taken to be an application—

(a) if it is for a level 2 petroleum activity—under new chapter 4A, part 2, division 3, subdivision 2; or

(b) if it is for a level 1 petroleum activity—under new chapter 4A, part 2, division 4.

(2) An amendment, surrender or transfer application under old chapter 4A that, immediately before the commencement had not been decided is, on the commencement, taken to be the corresponding type of application under new chapter 4A.

641 Existing environmental management documents

The current environmental management plan or current EMOS under the existing Act for, or for an application for, an environmental authority (mining activities), is on the commencement taken to be the submitted EM plan for the environmental authority or application.

Note—

See the existing Act, sections 187 (Environmental management plan required), 201 (EMOS required) and 253 (Previous environmental management document may be amended).

Division 2 Provisions inserted under Environmental Protection and Other Legislation Amendment Act 2007

641A Definition for div 2

In this division—

commencement means the commencement of the *Environmental Protection and Other Legislation Amendment Act 2004*, part 3.

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641B Non-standard environmental authority taken to be environmental authority for level 1 mining project

(1) This section applies to a non-standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.

(2) The authority is taken to be an environmental authority (mining activities) for a level 1 mining project.

641C Standard environmental authority taken to be environmental authority for level 2 mining project

(1) This section applies to a standard environmental authority (mining activities) that was in force under the Act immediately before the commencement and has remained in force since the commencement.

(2) The authority is taken to be an environmental authority (mining activities) for a level 2 mining project.

Part 8 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2005

642 EISs currently undergoing EIS process

Sections 56A and 56B do not apply for an EIS if the draft terms of reference for the EIS were, under section 41, submitted before the commencement of sections 56A and 56B.

643 Transitional provision for amended ss 619 and 624

(1) Subsection (2) applies if, immediately before the commencement of this section, section 619 applied in relation

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to an approval mentioned in section 624(1)(b), as in force on the commencement of this section.

(2) To remove any doubt, it is declared that section 619, as amended by the *Environmental Protection and Other Legislation Amendment Act 2005*, ceases to apply in relation to the approval on the commencement of this section.

Part 9 Transitional provision for Environmental Protection and Other Legislation Amendment Act 2007

644 References to environmental management programs or draft programs

(1) A reference to an environmental management program in an Act or document is taken, if the context permits, to be a reference to a transitional environmental program.

(2) A reference to a draft environmental management program in an Act or document is taken, if the context permits, to be a reference to a draft transitional environmental program.

Part 10 Savings provisions for Environmental Protection and Other Legislation Amendment Act (No. 2) 2008

645 Definition for pt 10

In this part—

commencement day means the day of commencement of the provision in which the term appears.

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646 Accrediting entity for s 440ZL

A reference in section 440ZL to a certificate issued by an accredited entity includes a certificate issued, before the commencement day, by the Energy Information Centre in South Australia.

Editor's note—

section 440ZL (Sale of solid fuel-burning equipment for use in residential premises and related matters)

Part 11 Transitional provisions for Greenhouse Gas Storage Act 2009

Division 1 Preliminary

647 Definitions for div 1

assent means the date of assent of the GHG storage Act.

converted authorities see section 648(2)(b).

document includes an approved form, a notice, an environmental authority and subordinate legislation.

former, for a provision mentioned in this part, means the provision to which the reference relates is a provision of this Act as in force before assent.

Zerogen means Zerogen Pty Ltd (ACN 118 696 932).

Division 2 Provisions for Zerogen

648 New environmental authority for Zerogen's converted GHG permits

(1) This section applies to the environmental authorities (petroleum activities) in force immediately before assent held

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by Zerogen (the ***old authorities***) relating to its authorities to prospect under the P&G Act, numbered 830 and 835.

Note—

On the date of assent of the GHG storage Act the authorities to prospect became GHG permits under that Act. See the GHG storage Act, section 431.

(2) On assent, the old authorities—

(a) cease to be environmental authorities for petroleum activities; and

(b) are taken to be environmental authorities (chapter 5A activities) for greenhouse gas storage activities (the ***converted authorities***).

(3) The converted authorities are non-code compliant, for a level 2 chapter 5A activity.

(4) The conditions of the converted authorities are all of the conditions of the old authorities that are relevant to the carrying out of greenhouse gas storage activities under the authority to prospect to which the converted authority relates.

(5) Chapter 5A applies to the converted authorities.

649 New environmental authority for Zerogen's new GHG permit

(1) This section applies for the GHG permit that, under the GHG storage Act, section 432, Zerogen is taken to have been granted on the date of assent of that Act.

(2) On assent, Zerogen is taken to have been granted an environmental authority (chapter 5A activities) for all greenhouse gas storage activities authorised under the GHG permit.

(3) The environmental authority is non-code compliant for a level 2 chapter 5A activity.

(4) The conditions of the environmental authority are all of the conditions of the environmental authority (chapter 5A activities) No. PEN 200040607, granted on 22 October 2007

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as in force on assent that are relevant to the carrying out of greenhouse gas storage activities under the GHG permit.

(5) Chapter 5A applies to the environmental authority.

Division 3 Provisions for replacement of former chapter 4A with chapter 5A

650 References to former chapter 4A

(1) A reference in an Act or a document to former chapter 4A is taken to be a reference to chapter 5A.

(2) A reference in an Act or a document to a particular provision of former chapter 4A (the ***repealed provision***) is taken to be a reference to the provision of chapter 5A that corresponds, or substantially corresponds, to the repealed provision.

651 Environmental authorities (petroleum activities) other than converted authorities

(1) This section applies to an environmental authority (petroleum activities) in force under former chapter 4A immediately before assent, other than the converted authorities.

(2) On assent the environmental authority is taken to be an environmental authority (chapter 5A activities) granted under chapter 5A that is—

(a) of the same level; and

(b) for the same activities; and

(c) subject to the same conditions.

(3) Chapter 5A applies to the environmental authority.

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652 References to environmental authorities (petroleum activities) and their levels

(1) A reference in an Act or document to an environmental authority (petroleum activities) is taken to be a reference to an environmental authority (chapter 5A activities) for—

(a) if the environmental authority is a converted authority—greenhouse gas storage activities; or

(b) otherwise—petroleum activities.

(2) A reference in an Act or document to a level 1 petroleum activity is taken to be to a level 1 chapter 5A activity.

(3) A reference in an Act or document to a level 2 petroleum activity is taken to be to a level 2 chapter 5A activity.

653 Migration of undecided applications

If, immediately before assent, an application has been made under former chapter 4A, but not decided, the application is taken to have been made under chapter 5A for the corresponding matter under that chapter.

654 Migration of decisions and documents

(1) This section applies to a decision or document in force immediately before assent given under former chapter 4A about a matter under that chapter.

(2) On assent, the decision or document is taken to have been given under chapter 5A about the corresponding matter under that chapter.

(3) However, subsection (2) does not change the time at which the decision or document was given.

(4) In this section—

given, for a decision or document, includes its making or submission.

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655 Migration of outstanding appeals

If, immediately before assent, an appeal about a matter under former chapter 4A had not been decided, on assent the appeal is taken to be an appeal about the corresponding matter under chapter 5A.

Part 13 Transitional provisions for Great Barrier Reef Protection Amendment Act 2009

657 Deferral of automatic ERMP requirement for existing agricultural ERAs

Section 88(a) does not apply to an agricultural ERA carried out before the commencement of this section until 6 months after the commencement.

658 Provision for appeals for ch 4

The *Great Barrier Reef Protection Amendment Act 2009*, section 19(2) is taken to have had effect from 23 February 2009.

Part 14 Transitional provision for Sustainable Planning Act 2009

659 Continuing application of ch 4, pt 1

(1) This section applies to a development application made but not decided under the repealed *Integrated Planning Act 1997* before the commencement.

(2) Chapter 4, part 1 as in force before the commencement continues to apply to the development application as if the *Sustainable Planning Act 2009* had not commenced.

(3) In this section—

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commencement means the day this section commences.

Part 15 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010

660 Definitions for pt 15

In this part—

commencement day means the day this section commences.

CSG amendment, to an existing CSG authority, means an amendment relating to managing coal seam gas water generated in connection with carrying out a relevant CSG activity.

existing CSG authority means a coal seam gas environmental authority that was in force immediately before the commencement day.

661 Temporary prohibition on constructing CSG evaporation dams under existing CSG authority

(1) While this section applies, an existing CSG authority does not authorise the construction of a CSG evaporation dam in connection with carrying out a relevant CSG activity.

Note—

See section 426A (Environmental authority required for chapter 5A activity).

(2) However, subsection (1) does not apply if the construction of the dam has substantially commenced before the commencement day.

(3) This section stops applying when—

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(a) a CSG amendment is made to the authority; or

(b) the holder of the authority gives the administering authority a revised (CSG) EM plan for the authority and the administering authority gives the holder a written notice approving construction of the dam.

662 Revised (CSG) EM plan required for existing CSG authority

(1) The holder of an existing CSG authority must within 1 year after the commencement day give the administering authority a revised (CSG) EM plan for the existing CSG authority.

(2) Even if the authority holder does not give a revised (CSG) EM plan within 1 year after the commencement day, the obligation under subsection (1) continues until—

(a) the holder gives the administering authority a revised (CSG) EM plan; or

(b) a CSG amendment is made to the existing CSG authority.

Note—

Under section 312E(1) the administering authority may amend an environmental authority (chapter 5A activities) if it considers the amendment is necessary or desirable because of a matter mentioned in section 312E(2), including (under section 312E(2)(a)) a contravention of this Act by the holder.

663 First annual return for existing CSG authority

Section 316A does not apply to the first annual return that the holder of an existing CSG authority is required to lodge after the commencement day unless the holder has given the administering authority a revised (CSG) EM plan for the existing CSG authority.

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Part 16 Transitional provisions for Geothermal Energy Act 2010

664 Deferral of requirement for environmental authority for existing authorised geothermal activities

(1) This section applies if—

(a) immediately before the commencement of this section, a geothermal activity was authorised to be carried out under the repealed *Geothermal Exploration Act 2004*; and

(b) a person was carrying out the activity before the commencement.

(2) Section 426 does not apply to the person—

(a) within 12 months after the commencement; and

(b) if, within the 12 months, the person applies for an environmental authority for the carrying out of the activity—until the application has been decided.

665 Deferral of requirement for environmental authority for Birdsville geothermal lease

(1) This section applies for the geothermal lease that, under the Geothermal Act, section 389(1) Ergon Energy is taken to have been granted on the date of assent of that Act.

(2) Section 426 does not apply to Ergon Energy or another person who, under the Geothermal Act, carries out an authorised activity for the lease—

(a) within 12 months after the commencement of this section; and

(b) if, within the 12 months, Ergon Energy applies for an environmental authority for authorised activities for the lease—until the application has been decided.

(3) In this section—

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Ergon Energy means Ergon Energy Corporation Limited ACN 087 646 062 or anyone else who holds the lease mentioned in subsection (1).

Part 17 Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011

666 Definitions for pt 17

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2011*.

commencement means commencement of this section.

unamended Act means this Act as in force from time to time before the commencement.

667 Existing EISs

(1) This section applies to an EIS submitted under section 47 before the day this section commences, for which the chief executive has not made a decision under section 49 on the day this section commences.

(2) The EIS must be considered under this Act even though a fee has not been paid as required under section 47(2) as in force immediately after the day this section commences.

668 Existing application for registration to carry out chapter 4 activity

(1) This section applies to an application under section 73D made before the commencement that has not been decided at the commencement.

(2) The application must be decided under the unamended Act.

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(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

669 Registration to carry out chapter 4 activity

(1) This section applies if—

(a) before the commencement, the administering authority issued a registration certificate to a person and, at the commencement, the person does not have a development permit; or

(b) the administering authority issues a registration certificate to a person under the unamended Act as applied by section 668, and the person does not have a development permit.

(2) Section 73G as in force immediately before the commencement applies in relation to the registration certificate.

670 Existing non-code compliant application for a level 1 mining project

(1) This section applies to an environmental authority (mining lease) application made before the commencement if—

(a) it is a non-code compliant application for a level 1 mining project; and

(b) the Land Court has, under section 222 of the unamended Act, given a recommendation to the MRA Minister; and

(c) at the commencement, the EPA Minister has not decided the application.

(2) Sections 224 and 225 of the unamended Act continue to apply in relation to the application as if the sections had not been amended by the amending Act.

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671 Existing draft transitional environmental programs

(1) This section applies to a draft transitional environment program submitted under section 332 or 333 before the commencement if, at the commencement, the administering authority has not decided whether to approve it.

(2) The administering authority must consider, or continue to consider, the draft transitional environment program and decide whether to approve it under the unamended Act.

(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

672 Transitional environmental programs

A transitional environmental program in force at the commencement, or approved under the unamended Act as applied by section 671, continues in effect even if it does not comply with section 331 as in force immediately after the commencement.

673 Existing application for disclosure exemption

(1) This section applies to an application for a disclosure exemption made under section 564 of the unamended Act before the commencement that has not been decided at the commencement.

(2) At the commencement, the application is taken to have been withdrawn.

674 Existing reviews and appeals about disclosure exemptions

(1) Subsection (2) applies to an application for a review of an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—

(a) was made under section 521 before the commencement; and

(b) has not been decided at the commencement.

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(2) At the commencement, the application is taken to have been withdrawn.

(3) Subsection (4) applies to an appeal against a review decision for an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—

(a) was made under section 524 before the commencement; and

(b) has not been decided at the commencement.

(4) At the commencement—

(a) the appeal is taken to have been withdrawn; and

(b) if the Land Court has started to hear the appeal, the Land Court must stop hearing the appeal.

675 Existing disclosure exemptions

(1) This section applies to a disclosure exemption granted under the unamended Act.

(2) Chapter 12, part 3 of the unamended Act continues to apply in relation to the disclosure exemption as if this Act had not been amended by the amending Act.

Part 18 Transitional provisions for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012

Division 1 Preliminary

676 Definitions for pt 18

In this part—

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amending Act means the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

chapter 4 activity means a chapter 4 activity under the unamended Act, schedule 4.

code of environmental compliance means a code of environmental compliance under the unamended Act, schedule 4.

commencement means the commencement of this section.

conversion application—

(a) for division 5—see section 695; or

(b) for division 5A—see section 698B.

environmental authority (chapter 5A activities) means an environmental authority (chapter 5A activities) under former section 309A(3).

environmental authority (mining activities) means an environmental authority (mining activities) under former section 146(2).

former, for a provision mentioned in this part, means the provision as in force immediately before the amendment or repeal of the provision under the amending Act.

former holder see section 698A.

non-transitional ERA see section 676A(1).

registration certificate means a registration certificate under former section 73F.

standard environmental conditions means standard environmental conditions under the unamended Act, schedule 4.

surrendered registration certificate see section 698A.

UDA development approval see the ULDA Act, schedule.

UDA development condition see the ULDA Act, section 55(4)(b).

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ULDA Act means the *Urban Land Development Authority Act 2007*.

unamended Act means this Act as in force from time to time before the commencement.

Division 2 Provisions for chapter 4 activities

Subdivision 1 Non-transitional ERAs

676A Environmentally relevant activity may be prescribed as non-transitional ERA

(1) A regulation may prescribe a section 19 activity as an environmentally relevant activity for which the development authority or registration certificate for the activity does not transition to an environmental authority after the commencement (a ***non-transitional ERA***).

(2) In this section—

section 19 activity means an activity that, before the commencement, was prescribed under section 19 as an environmentally relevant activity.

Subdivision 2 Chapter 4 activities that are not transitioned

676B Application of sdiv 2

This subdivision applies to a non-transitional ERA.

676C Continuing effect of unamended Act for non-transitional ERA

(1) The unamended Act continues to apply to a non-transitional ERA until a day prescribed under a regulation.

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(2) However, the unamended Act, section 427 does not apply to a person who starts carrying out a chapter 4 activity after the commencement.

Subdivision 3 Chapter 4 activities that are transitioned

676D Application of sdiv 3

This subdivision does not apply to a non-transitional ERA.

677 Continuing effect of existing development permit for chapter 4 activity as environmental authority

(1) This section applies if, immediately before the commencement, a development permit for a chapter 4 activity is in effect.

(2) From the commencement—

(a) if the chapter 4 activity the subject of the permit is a mobile and temporary environmentally relevant activity—

(i) the permit becomes an environmental authority for a prescribed ERA; and

(ii) the development conditions of the permit become conditions of the environmental authority, as standard conditions; and

(b) if the chapter 4 activity the subject of the permit is an activity other than a mobile and temporary environmentally relevant activity—

(i) the development conditions of the permit become an environmental authority for a prescribed ERA; and

(ii) the development conditions of the permit become conditions of the environmental authority; and

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(c) the holder of the registration certificate for the activity the subject of the permit becomes the holder of the environmental authority.

(3) The environmental authority is taken to have had effect on the day the development permit had effect under the Planning Act.

(4) The anniversary day for the environmental authority is the same as the anniversary day that applied to the registration certificate immediately before the commencement.

678 Existing development application for chapter 4 activity

(1) This section applies for a development application for a chapter 4 activity made, but not decided, before the commencement.

(2) From the commencement—

(a) section 115 does not apply to the application; and

(b) former chapter 4, part 1 continues to apply to the application as if the amending Act had not been enacted.

678A Application to convert particular existing conditions into environmental authority

(1) Subsection (2) applies if—

(a) immediately before the commencement, a development permit for a chapter 4 activity is in effect, but no registration certificate for the activity was issued; or

(b) after the commencement, a development permit for a chapter 4 activity comes into effect under section 678.

(2) A person may apply to the chief executive to convert the development conditions of the permit into an environmental authority for a prescribed ERA.

(3) Subsection (4) applies if—

(a) immediately before the commencement—

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(i) a UDA development approval for a chapter 4 activity is in effect; and

(ii) UDA development conditions (the ***relevant conditions***) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the ULDA Act, section 58(a); and

(iii) no registration certificate for the activity was issued; or

(b) after the commencement—

(i) a PDA development approval for a chapter 4 activity, applied for before the commencement, comes into effect; and

(ii) PDA development conditions (also the ***relevant conditions***) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the *Economic Development Act 2012*, section 88(a); and

(iii) no registration certificate for the activity is issued.

(4) A person may apply to the chief executive to convert the relevant conditions into an environmental authority for a prescribed ERA.

(5) In this section—

PDA development approval see the *Economic Development Act 2012*, schedule 1.

PDA development condition see the *Economic Development Act 2012*, section 85(4)(b).

678B Requirements for conversion application

(1) An application under section 678A must—

(a) be written; and

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(b) describe all environmentally relevant activities for the application; and

(c) describe the land on which each activity will be carried out; and

(d) state whether the applicant is a registered suitable operator for the carrying out of the activity; and

(e) if the applicant is not a registered suitable operator for the carrying out of the activity, include an application, under section 318F, for registration as a suitable operator for the carrying out of the activity; and

(f) state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant.

(2) No fee is payable for an application under section 678A.

678C Criterion for decision

An application under section 678A may be granted only if the applicant is a registered suitable operator for the carrying out of the activity.

678D Grant of environmental authority for conversion

(1) If the chief executive decides to approve an application under section 678A(2)—

(a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and

(b) the development conditions of the permit become the conditions of the environmental authority.

(2) If the chief executive decides to approve an application under section 678A(4)—

(a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and

(b) the relevant conditions under section 678A(3) become the conditions of the environmental authority.

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678E When environmental authority takes effect

The environmental authority has effect—

(a) if the authority states that it takes effect on the day nominated by the holder of the authority in a written notice given to the chief executive—on the nominated day; or

(b) otherwise—on the day the authority is issued.

678F Notice of decision

(1) This section applies if—

(a) the chief executive decides to refuse the application; and

(b) the application was made together with an application, under section 318F, for registration as a suitable operator for the carrying out of the activity.

(2) The notice that the chief executive must give the applicant under section 318I(2) must include notice of the decision.

679 Continuing effect of existing UDA development approval for chapter 4 activity as environmental authority

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

(a) a UDA development approval for a chapter 4 activity is in effect; and

(b) UDA development conditions (the ***relevant conditions***) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the ULDA Act, section 58(a).

Note—

See also the *Economic Development Act 2012*, section 205 for the application of this provision following the commencement of that Act.

(2) From the commencement—

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(a) the relevant conditions of the UDA development approval—

(i) become an environmental authority for a prescribed ERA; and

(ii) become conditions of the environmental authority; and

(b) the holder of the registration certificate for the activity the subject of the UDA development approval becomes the holder of the environmental authority; and

(c) the carrying out of the prescribed ERA under the environmental authority is not a UDA development offence.

(3) The environmental authority is taken to have had effect on the day the UDA development approval had effect under the ULDA Act.

(4) The anniversary day for the environmental authority is the anniversary of the day the UDA development approval was given.

(5) In this section—

UDA development offence see the ULDA Act, schedule.

680 Continuing effect of existing registration certificate as environmental authority

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

(a) a registration certificate is in effect; and

(b) a code of environmental compliance applied to the chapter 4 activity stated in the certificate.

(2) From the commencement—

(a) the registration certificate becomes an environmental authority for a prescribed ERA; and

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(b) the standard environmental conditions of the code of environmental compliance become conditions of the authority, as standard conditions; and

(c) the registered operator for the registration certificate becomes the holder of the environmental authority.

(3) The environmental authority is taken to have had effect on the day the registration certificate had effect under the unamended Act.

(4) The anniversary day for the environmental authority is the anniversary day for the registration certificate.

681 Existing application for registration to carry out chapter 4 activity

(1) This section applies for an application for registration to carry out a chapter 4 activity made, but not decided, under former chapter 4, part 2 before the commencement.

(2) From the commencement, former chapter 4, part 2 continues to apply to the application as if the amending Act had not been enacted.

(3) Subsection (4) applies if—

(a) a registration certificate is given for the application; and

(b) immediately before the commencement, a code of environmental compliance applied to the chapter 4 activity stated in the certificate.

(4) The registration certificate is taken to be one to which section 680 applies.

(5) If subsection (4) does not apply and a registration certificate is given for the application, the registration certificate is taken to be one to which section 677 applies.

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Division 3 Provisions for environmental authorities (mining activities)

682 Continuing effect of existing environmental authority (mining activities) as environmental authority

(1) This section applies if, immediately before the commencement, an environmental authority (mining activities) is in effect.

(2) From the commencement, the environmental authority (mining activities) becomes an environmental authority for mining activities.

(3) The environmental authority is taken to have had effect on the day the environmental authority (mining activities) had effect under the unamended Act.

(4) The anniversary day for the environmental authority is the anniversary day for the environmental authority (mining activities).

683 Effect of commencement on particular applications

(1) This section applies to the following applications made, but not decided, before the commencement—

(a) an application for an environmental authority (mining activities) made under former chapter 5; and

(b) an application to amend, surrender or transfer an environmental authority (mining activities).

(2) From the commencement—

(a) processing of the application and all matters incidental to the processing must proceed as if the amending Act had not been enacted; and

(b) an environmental authority granted, amended or transferred is taken to be an environmental authority to which section 682 applies.

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Note—

See, however, section 749.

684 Existing progressive certification

(1) This section applies if the administering authority has, under former chapter 5, part 9A given a progressive certification for a particular area within a relevant mining tenement for a level 1 mining project.

(2) From the commencement—

(a) the certification becomes a progressive certification for the mining tenure for chapter 5A, part 6; and

(b) the area the subject of the progressive certification is a certified rehabilitated area for the mining tenure for chapter 5A, part 6.

(3) In this section—

level 1 mining project means a level 1 mining project under former section 151(1).

685 Existing application for progressive certification

(1) This section applies if an application for progressive certification is made, but not decided, under former chapter 5, part 9A before the commencement.

(2) From the commencement—

(a) the application becomes a progressive certification application under section 318ZC; and

(b) chapter 5A, part 6 applies to the application.

686 Existing surrender notice

(1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (mining activities) under former section 271(2) before the commencement.

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(2) From the commencement, the surrender notice becomes a surrender notice under section 258.

687 Existing audit notices

(1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) an audit notice under former section 280(1) before the commencement.

(2) From the commencement, the audit notice becomes an audit notice under section 322.

688 Existing appointment of auditor

(1) This section applies if an individual is appointed as an auditor under former section 285(1) before the commencement and the term of the appointment has not ended.

(2) On the commencement, the individual holds approval as an auditor under chapter 12, part 3A, division 2.

689 Existing notice of proposed amendment, cancellation or suspension of environmental authority

(1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) notice of a proposed action under former section 295(1) before the commencement.

(2) From the commencement—

(a) if the proposed action is to amend the environmental authority—

(i) the notice becomes a notice given under section 217; and

(ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or

(b) if the proposed action is to suspend or cancel the environmental authority—

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(i) the notice becomes a notice given under section 280; and

(ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

Division 4 Provisions for other environmental authorities

690 Continuing effect of existing environmental authority (chapter 5A activities) as environmental authority

(1) This section applies if, immediately before the commencement, an environmental authority (chapter 5A activities) is in effect.

(2) From the commencement, the environmental authority (chapter 5A activities) becomes an environmental authority for a resource activity.

(3) The environmental authority is taken to have had effect on the day the environmental authority (chapter 5A activities) had effect under the unamended Act.

(4) The anniversary day for the environmental authority is the anniversary day for the environmental authority (chapter 5A activities).

691 Existing application for environmental authority (chapter 5A activities))

(1) This section applies to the following applications made, but not decided, before the commencement—

(a) an application for an environmental authority (chapter 5A activities) made under former chapter 5A; and

(b) an application to amend, surrender or transfer an environmental authority (chapter 5A activities).

(2) From the commencement—

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(a) processing of the application and all matters incidental to the processing must proceed as if the amending Act had not been enacted; and

(b) an environmental authority granted, amended or transferred is taken to be an environmental authority to which section 690 applies.

692 Existing surrender notice

(1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (chapter 5A activities) under former section 312B(2) before the commencement.

(2) From the commencement, the surrender notice becomes a surrender notice under section 258.

693 Existing notice of proposed amendment, cancellation or suspension of environmental authority

(1) This section applies if the administering authority has given the holder of an environmental authority (chapter 5A activities) notice of a proposed action under former section 312H(1) before the commencement.

(2) From the commencement—

(a) if the proposed action is to amend the environmental authority—

(i) the notice becomes a notice given under section 217; and

(ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or

(b) if the proposed action is to suspend or cancel the environmental authority—

(i) the notice becomes a notice given under section 280; and

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(ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

Division 5 Transitional authorities for environmentally relevant activities

694 Definition for div 5

In this division—

transitional authority means—

(a) an environmental authority that, under section 682 or 690, is taken to be an environmental authority under chapter 5; or

(b) a development permit or development conditions of a development permit that, under section 677, are taken to be an environmental authority under chapter 5; or

(c) UDA development conditions of a UDA development approval that, under section 679, are taken to be an environmental authority under chapter 5; or

(d) a registration certificate that, under section 680, is taken to be an environmental authority under chapter 5.

695 Application to convert conditions of transitional authority to standard conditions

(1) The holder of a transitional authority may apply (a ***conversion application***) to the administering authority to convert the conditions of the transitional authority to the standard conditions for the authority or relevant activity.

(2) Subsection (1) applies despite chapter 5, part 7.

696 Requirements for conversion application

A conversion application must be—

(a) in the approved form; and

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(b) accompanied by the fee prescribed under a regulation.

697 Deciding conversion application

(1) The administering authority must, within 10 business days after receiving the application, decide whether to—

(a) approve the application; or

(b) refuse the application.

(2) In deciding the application, the administering authority must consider the criteria mentioned in section 175(2).

(3) Despite subsection (1), the administering authority may only approve an application if—

(a) eligibility criteria are in effect for the relevant activity for the authority; and

(b) the relevant activity complies with the eligibility criteria.

698 Steps after making decision

(1) If the administering authority decides to approve the application, it must, within 10 business days—

(a) amend the environmental authority to give effect to the conversion; and

(b) record particulars of the amendment in the relevant register; and

(c) issue the amended environmental authority to the applicant.

(2) If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

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Division 5A Suspended activities

698A Application of div 5A

This division applies if, before the commencement, a person (the ***former holder***)—

(a) surrendered a registration certificate for a development permit (a ***surrendered registration certificate***) that, but for the surrender, would be taken under section 677 to be an environmental authority under chapter 5; or

(b) surrendered a registration certificate (also a ***surrendered registration certificate***) that, but for the surrender, would be taken under section 680 to be an environmental authority under chapter 5.

698B Application to convert surrender of registration certificate to suspension of environmental authority

The former holder may, within 2 years after the commencement, apply (a ***conversion application***) to the administering authority to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A.

698C Application of ch 5, pt 11A, divs 2 to 4 to conversion application

Chapter 5, part 11A, divisions 2 to 4 apply to the conversion application as if the conversion application were a suspension application.

698D Effect of conversion

(1) This section applies if the conversion application is approved.

(2) From the day of the conversion, the former holder of the surrendered registration certificate becomes—

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(a) the holder of an environmental authority that has been suspended under chapter 5, part 11A; and

(b) a registered suitable operator.

(3) From the day of the conversion—

(a) for a surrendered registration certificate mentioned in section 698A(a)—the development conditions of the development permit become conditions of the suspended environmental authority; or

(b) for a surrendered registration certificate mentioned in section 698A(b)—the standard environmental conditions of the code of environmental compliance become conditions of the suspended environmental authority, as standard conditions.

(4) The anniversary day for the suspended environmental authority is—

(a) for a surrendered registration certificate mentioned in section 698A(a)—the same as the anniversary day that applied to the registration certificate immediately before the commencement; or

(b) for a surrendered registration certificate mentioned in section 698A(b)—the anniversary day for the registration certificate.

Division 6 Financial assurance

699 Existing financial assurance requirement

(1) This section applies if, before the commencement, the administering authority required—

(a) the giving of financial assurance under former section 312O(2) or 312P(1)(a); or

(b) a change to financial assurance under former section 312P(1)(b).

(2) From the commencement, the requirement continues to apply.

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(3) The holder of an environmental authority to which a requirement applies must not carry out the relevant activity under the environmental authority until the financial assurance is given.

Maximum penalty—4,500 penalty units.

(4) The administering authority may amend the environmental authority to which the requirement applies to impose a condition about the financial assurance.

(5) The administering authority must give written notice of the amendment to the environmental authority holder.

Division 7 Provisions about codes of practice

700 Existing codes of practice

(1) This section applies for a code of practice (an ***existing code of practice***) approved under former section 548 before the commencement.

(2) On the commencement, the existing code of practice becomes a code of practice under section 318E.

(3) However, despite section 318E(4), an existing code of practice expires 2 years after the commencement.

Division 8 Provisions about environmental management plans

701 Conditions about environmental management plans for particular environmental authorities

(1) This section applies if—

(a) an old authority becomes, under section 682 or 690, an environmental authority under chapter 5 (the ***new authority***); and

(b) either—

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(i) the old authority had a condition requiring compliance with an environmental management plan; or

(ii) an environmental management plan for the old authority states environmental protection commitments for rehabilitation of the land to be disturbed under each relevant resource tenement.

(2) The administering authority may amend the new authority to impose conditions consistent with the environmental management plan.

(3) However, the amendment may only be made if—

(a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and

(b) the amendment is made within the later of the following periods—

(i) 2 years after the commencement; or

(ii) 2 years after the environmental authority takes effect.

(4) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.

(5) This section does not apply if a conversion application is made for the environmental authority under section 695.

(6) In this section—

environmental management plan means an environmental management plan under the unamended Act, schedule 4.

old authority means any of the following under the unamended Act—

(a) an environmental authority (exploration);

(b) an environmental authority (mineral development);

(c) an environmental authority (mining lease);

(d) an environmental authority (prospecting);

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(e) an environmental authority (mining claim);

(f) an environmental authority (chapter 5A activities).

Division 9 Provisions about plans of operations

702 Existing plan of operations

(1) This section applies for a plan of operations for an environmental authority (mining lease) submitted, or taken to have been submitted, to the administering authority under former section 233 before the commencement.

(2) On the commencement, the plan of operations becomes a plan of operations under section 287.

(3) The plan of operations is taken to have been submitted on the day it was submitted under the unamended Act.

703 Plan of operations for environmental authority for petroleum activity that relates to petroleum lease

(1) This section applies for an environmental authority for a petroleum activity authorised under a petroleum lease if the authority—

(a) was issued before the commencement; and

(b) chapter 5, part 12, division 1 applies to the authority.

(2) The holder of the authority must, within 6 months after the commencement, give the administering authority a plan of operations for all relevant activities.

Maximum penalty—100 penalty units.

(3) Section 287 does not apply to the holder of the authority until the earlier of the following—

(a) the day a plan of operations is given to the administering authority for all relevant activities;

(b) the day that is 6 months after the commencement.

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(4) If a plan of operations for the environmental authority is given to the administering authority, the administering authority may amend the environmental authority to remove any conditions that relate to matters included in the plan.

(5) However, an amendment mentioned in subsection (4) may only be made if—

(a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and

(b) the amendment is made within 12 months after the commencement.

(6) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.

Division 10 Miscellaneous provisions

704 Existing application to change anniversary day

(1) This section applies if—

(a) an application to change the anniversary day for a registration certificate or environmental authority is made, but not decided, under former section 318A before the commencement; and

(b) under section 680, 682 or 690, the registration certificate or environmental authority becomes an environmental authority.

(2) From the commencement—

(a) the application becomes an application under section 310; and

(b) chapter 5, part 12, division 3, subdivision 2 applies to the application.

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705 Particular persons taken to be registered suitable operator

(1) This section applies to—

(a) a person who holds a registration certificate, given under former section 73F before or after the commencement, that has not been cancelled; or

(b) the holder of an environmental authority issued under former chapter 5 or 5A before or after the commencement.

(1A) However, this section does not apply to a person who holds a registration certificate for a non-transitional ERA.

(2) On the commencement, the person becomes a registered suitable operator.

(3) Subsection (4) applies if, immediately before the commencement, a registration certificate mentioned in subsection (1)(a) was suspended.

(4) The suspension becomes a suspension of the registration of the holder of the registration certificate as a registered suitable operator under section 318N.

706 Effect of proposed standard environmental conditions prepared before commencement of amending Act

(1) This section applies if—

(a) a draft code of environmental compliance (a ***draft code***) was prepared under the unamended Act before the commencement; and

(b) the draft code includes proposed standard environmental conditions (the ***proposed conditions***); and

(c) the draft code is not approved or made under the unamended Act before the commencement.

(2) The chief executive may, under section 318D(1), make the proposed conditions, with or without changes, as standard conditions for an environmentally relevant activity or

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environmental authority, without complying with section 318C if—

(a) public consultation was carried out for the draft code; and

(b) the public consultation was carried out in a way that is substantially similar to the requirements under section 318C.

707 Deferment of application of s 426 to newly prescribed ERAs

(1) This section applies to a person carrying out an activity at premises if—

(a) the activity is prescribed for the first time as an environmentally relevant activity under section 19 (the ***relevant change***); and

(b) the activity was carried out at the premises before the relevant change; and

(c) the activity continues to be carried out at the premises after the relevant change.

(2) Section 426 does not apply to the person in carrying out the activity at the premises until 1 year after the relevant change.

707A Eligibility criteria and standard conditions for particular environmentally relevant activities

(1) This section applies for an environmentally relevant activity if, immediately before the commencement, the activity would have constituted either of the following and would have been subject to a code of environmental compliance under the unamended Act—

(a) a chapter 4 activity, or aspects of a chapter 4 activity;

(b) a mining activity.

(2) From the commencement—

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(a) the matters identified as eligibility criteria in the code of environmental compliance are taken to be the eligibility criteria for the environmentally relevant activity until new eligibility criteria for the activity take effect under section 318(3); and

(b) standard environmental conditions of the code of environmental compliance are taken to be the standard conditions for the environmentally relevant activity until new standard conditions for the activity take effect under section 318D(5).

708 References to chapter 4 activity, development approval or registration certificate

(1) A reference in an Act to a chapter 4 activity may, if the context permits, be taken to be a reference to a prescribed ERA.

(2) A reference in an Act to a development approval or registration certificate that is in effect for a chapter 4 activity may, if the context permits, be taken to be a reference to the environmental authority under section 677 or 680.

709 References to former chapters 5 and 5A

(1) A reference in an Act or a document to former chapter 5 or 5A may, if the context permits, be taken to be a reference to chapter 5.

(2) A reference in an Act or a document to a particular provision of former chapter 5 or 5A (the ***repealed provision***) may, if the context permits, be taken to be a reference to the provision of chapter 5 that corresponds, or substantially corresponds, to the repealed provision.

710 References to former terms

(1) A reference in an Act or a document to a term of the unamended Act (the ***former term***) stated in column 1 of the following table may, if the context permits, be taken to be a

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reference to the term stated opposite the former term in column 2 of the table—

Table

	Column 1	Column 2
1	chapter 5A activity	resource activity other than a mining activity
2	chapter 5A activity project	ERA project for a resource activity other than a mining activity
3	coal seam gas environmental authority	environmental authority for a CSG activity
4	code compliant conditions	standard conditions
5	code compliant application	standard application
6	code compliant authority	environmental authority for an eligible ERA subject to the standard conditions
7	environmental authority (chapter 5A activities)	environmental authority for a resource activity, other than a mining activity
8	environmental authority (exploration)	environmental authority for a mining activity relating to an exploration permit
9	environmental authority (mineral development)	environmental authority for a mining activity relating to a mineral development licence
10	environmental authority (mining activities)	environmental authority for a mining activity
11	environmental authority (mining claim)	environmental authority for a mining activity relating to a mining claim

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	Column 1	Column 2
12	environmental authority (mining lease)	environmental authority for a mining activity relating to a mining lease
13	environmental authority (prospecting)	prescribed conditions for a small scale mining activity
14	GHG residual risks requirement	residual risks requirement for a GHG storage activity
15	non-code compliant application	variation application
16	non-code compliant authority	environmental authority for an eligible ERA subject to varied standard conditions
17	mining project	resource project for a mining activity
18	level 1 mining project	resource project for a mining activity that is an ineligible ERA
19	level 1 chapter 5A activity	resource activity, other than a mining activity, that is an ineligible ERA
20	level 2 mining project	resource project for a mining activity that is an eligible ERA
21	level 2 chapter 5A activity	resource activity, other than a mining activity, that is an eligible ERA
22	standard environmental conditions	standard conditions

(2) In this section—

eligible ERA see section 112.

ineligible ERA see section 112.

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Part 19 Transitional provisions for the Mining and Other Legislation Amendment Act 2013

711 Provision about cancellation of environmental authority

(1) This section applies if, on the cancellation of an environmental authority under section 277A, there is no prescribed condition requiring the holder of the mining tenure for carrying out the small scale activity to which the authority relates—

(a) to give the administering authority financial assurance; or

(b) to rehabilitate land.

(2) On the cancellation of the environmental authority, a current condition of the authority is taken to be a prescribed condition for carrying out the small scale mining activity.

(3) Subsection (2) applies in relation to the carrying out of the small scale mining activity until a regulation under section 21A prescribes a condition requiring the holder of the mining tenure for carrying out the small scale mining activity—

(a) to give the administering authority financial assurance; or

(b) to rehabilitate land.

(4) In this section—

current condition, of an environmental authority, means a condition of the authority requiring the holder of the authority—

(a) to give the administering authority financial assurance; or

(b) to rehabilitate land.

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712 Provision about financial assurance

(1) This section applies to financial assurance for an environmental authority (***EA financial assurance***) if—

(a) the financial assurance is held by the administering authority immediately before the commencement of the section; and

(b) the activity carried out under the environmental authority is a small scale mining activity; and

(c) the chief executive cancels the environmental authority under section 277A; and

(d) a prescribed condition requires the holder of a mining tenure for carrying out the small scale mining activity to give the administering authority financial assurance for the tenure.

(2) If the amount of the EA financial assurance is equal to the amount required under the prescribed condition (the ***required amount***), the amount of the EA financial assurance is taken to be the financial assurance for the mining tenure.

(3) If the amount of the EA financial assurance is more than the required amount—

(a) the amount of the EA financial assurance that is equal to the required amount is taken to be the financial assurance for the mining tenure; and

(b) the administering authority must return to the holder the amount that is more than the required amount.

(4) If the amount of the EA financial assurance is less than the required amount—

(a) the amount of the EA financial assurance is taken to be part of the financial assurance for the mining tenure; and

(b) the holder must, to comply with the prescribed condition, give the administering authority the amount that is the difference between the required amount and the EA financial assurance.

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Part 20 Transitional provisions for Environmental Offsets Act 2014

713 Continued effect to make payment

(1) This section applies if, immediately before the commencement of this section, an environmental offset condition required a person to make a monetary payment to an environmental offset trust and the payment had not been made.

(2) Despite the repeal of section 209(2) by the *Environmental Offsets Act 2014*, the person is still required to make the payment.

(3) However, the payment is to be made to the offset account under that Act instead of to an environmental offset trust.

714 Environmental offset conditions

(1) This section applies if, on or after the commencement of this section, an environmental authority or draft environmental authority becomes, under this Act, subject to an environmental offset condition.

(2) To the extent the environmental offset condition is inconsistent with a deemed condition, the deemed condition prevails.

Note—

See the *Environmental Offsets Act 2014*, section 5(3). Under that provision, particular imposed conditions prevail over deemed conditions.

(3) In this section—

deemed condition see the *Environmental Offsets Act 2014*, schedule 2.

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Part 21 Saving and transitional provisions for State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014

715A Definition for pt 21

In this part—

repealed Wild Rivers Act 2005 means the *Wild Rivers Act 2005* as in force immediately before its repeal.

715D Applications for environmental authorities and amendment applications for particular resource activities

(1) This section applies to an application for an environmental authority and an amendment application for an environmental authority (each an ***existing application***) if the existing application—

(a) was made, but not decided, before the commencement; and

(b) relates to a resource activity that is, or is proposed to be, carried out on land that—

(i) is in a strategic environmental area under the *Regional Planning Interests Act 2014*; and

(ii) was in a wild river area under the repealed *Wild Rivers Act 2005* immediately before the repeal of that Act.

(2) For assessing and deciding the existing application, the standard criteria is taken to include any relevant former wild river declaration as if the repealed *Wild Rivers Act 2005* and the former wild river declaration were still in force.

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(3) In this section—

former wild river declaration means a wild river declaration in force under the repealed *Wild Rivers Act 2005* immediately before its repeal.

Part 22 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

717 Contraventions of s 427 before its repeal

(1) This section applies if a person is alleged to have committed, before the commencement, an offence against repealed section 427.

(2) Proceedings for the offence may be continued or started and the Court may hear and decide the proceedings, as if section 427 had not been repealed.

(3) This section applies despite the Criminal Code, section 11.

719 Pre-amended Act continues to apply for particular mining leases

(1) This section applies if, after the commencement, a native title issues decision is made in relation to a proposed mining lease.

(2) The pre-amended Act continues to apply to the proposed mining lease.

(3) In this section—

commencement means the commencement of this section.

native title issues decision has the meaning given by the Mineral Resources Act, schedule 1A, section 669(1), immediately before the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

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Part 23 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2014

Division 1 Preliminary

720 Definitions for pt 23

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2014*.

former, in relation to a provision, means the provision as in force immediately before the amendment of the provision under the amending Act.

Division 2 Transitional provisions for amendments commencing on assent

721 Submission of EIS

(1) This section applies if, before the commencement, final terms of reference have been given to a proponent under section 46.

(2) Former section 47 continues to apply for the submission of an EIS by the proponent.

722 Decision on whether EIS may proceed

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

(a) a proponent has submitted an EIS; and

(b) the chief executive has not made a decision under former section 49.

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(2) Section 49 applies to the EIS application.

723 Proponent may resubmit EIS

(1) This section applies if—

(a) before the commencement—

(i) a proponent has submitted an EIS; and

(ii) the chief executive has not made a decision under former section 49; and

(b) after the commencement, the chief executive decides, under section 49, to refuse to allow the EIS to proceed and the proponent—

(i) does not apply, under section 50, to the Minister to review the decision; or

(ii) applies, under section 50, to the Minister to review the decision and the Minister confirms the decision.

(2) The proponent may resubmit the EIS, with changes, to the chief executive under section 49A.

724 Assessment of adequacy of response to submission and submitted EIS

(1) Subsection (2) applies if—

(a) before the commencement, a person makes a submission to the chief executive about a submitted EIS; and

(b) after the commencement, the chief executive accepts the submission.

(2) Section 56A applies to the EIS.

(3) Subsection (4) applies if the chief executive decides, under section 56A, to refuse to allow the EIS to proceed and the proponent—

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(a) does not apply, under section 56B, to the Minister to review the decision; or

(b) applies, under section 56B, to the Minister to review the decision and the Minister confirms the decision.

(4) Section 56AA applies in relation to the submitted EIS.

725 Suspension application

(1) This section applies to a suspension application—

(a) made, but not decided, before the commencement; and

(b) for which the nominated period is not 1, 2 or 3 years.

(2) The nominated period of the proposed suspension is taken to be the next anniversary day of the environmental authority occurring after the nominated period.

Example—

If the nominated period for the proposed suspension is 18 months the nominated period is taken to be 2 years.

(3) Subsection (2) does not prevent the holder of the environmental authority from ending the suspension under section 284G.

726 ERA standards

(1) This section applies to the eligibility criteria for an environmentally relevant activity and standard conditions in effect under the unamended Act immediately before the commencement.

(2) The eligibility criteria and standard conditions are taken to be an ERA standard made under section 318.

(3) In this section—

unamended Act means this Act as in force immediately before the commencement.

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Division 3 Transitional provisions for amendments commencing by proclamation

Subdivision 1 General amendments

727 Applicant may elect for particular application to be dealt with as standard application or variation application

(1) This section applies to an application for an environmental authority—

(a) that relates to a coordinated project; and

(b) made, but not decided, before the commencement; and

(c) that, if it had been made on or after the commencement, would be—

(i) a standard application; or

(ii) a variation application.

(2) The applicant may elect, by written notice given to the administering authority—

(a) to have an application to which subsection (1)(c)(i) applies treated as a standard application; or

(b) to have an application to which subsection (1)(c)(ii) applies treated as a variation application.

728 Applicant may elect for particular requirements to apply to particular application

(1) This section applies to an application for an environmental authority that relates to a coordinated project if, before the commencement—

(a) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General's conditions that relate to each relevant activity; and

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(b) the application has not been decided.

(2) The applicant may elect, by giving written notice to the administering authority, for section 125(3) to apply to the application.

729 Applicant may elect for particular requirements to apply to site-specific applications—CSG activities

(1) This section applies to an application for an environmental authority that relates to a coordinated project if, before the commencement—

(a) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General's conditions that relate to each relevant activity; and

(b) the application has not been decided.

(2) The applicant may elect, by giving written notice to the administering authority, for section 126(3) to apply to the application.

730 Conditions that must be imposed on particular applications

Section 205 applies to the standard application or variation application to which section 729 applies.

Subdivision 2 Amendments related to replacement of former chapter 7, part 8

731 Definition for sdiv 2

In this subdivision—

former chapter 7, part 8 means chapter 7, part 8 of the Act as in force immediately before the amendment of the part under the amending Act.

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732 Continuing effect of registration of land

(1) Land that, immediately before the commencement, was recorded in the environmental management register under former chapter 7, part 8 continues to be recorded in the environmental management register as if it were recorded under chapter 7, part 8.

(2) Land that, immediately before the commencement, was recorded in the contaminated land register under former chapter 7, part 8 continues to be recorded in the contaminated land register as if it were recorded under chapter 7, part 8.

(3) Any conditions on the use or management of land recorded in the environmental management register or the contaminated land register under former chapter 7, part 8 continue to apply to the land mentioned in subsections (1) and (2).

733 Provision for land recorded under repealed Act

(1) This section applies to land the particulars of which were recorded under the *Contaminated Land Act 1991*, as in force immediately before its repeal, in the contaminated sites register under that Act as being a confirmed site, restricted site or probable site.

(2) The particulars of the land are taken to have been recorded in the environmental management register or contaminated land register on the date that the particulars were recorded in the contaminated sites register.

734 Continuing effect of notices given under former chapter 7, part 8

A notice given under former chapter 7, part 8 continues to have effect as if former chapter 7, part 8 was still in force.

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735 Continuing effect of site management plan made under former chapter 7, part 8

A site management plan made under former chapter 7, part 8 continues to have effect as if the plan were a site management plan under chapter 7, part 8.

736 Particular existing applications

(1) This section applies to any of the following applications made under the unamended Act but not decided before the commencement—

(a) an application to waive a requirement to conduct or commission a site investigation made under former section 378;

(b) an application to waive a requirement to remediate contaminated land made under former section 392;

(c) an application to waive a requirement to prepare or commission a site management plan for contaminated land made under former section 407.

(2) On the commencement, the application lapses.

737 Applications for approval of draft site management plans

(1) This section applies to an application for approval of a draft site management plan made under former section 404 but not decided before the commencement.

(2) The administering authority must decide the application as if former chapter 7, part 8 was still in force.

738 Notice to purchaser

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

(a) the owner of land (the ***seller***) to which former section 421 applies has entered into an agreement to dispose of the land to someone else (the ***buyer***); and

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(b) the seller has not given the buyer a notice under former section 421(2).

(2) The seller may give a notice under section 408(5).

(3) Section 408(6) and (7) apply to the buyer and the seller.

739 Disposal permits

Sections 424 and 425, as in force immediately before this section commences, continue to apply until the day prescribed by regulation.

Part 24 Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

740 Definitions for part

In this part—

amending Act means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amending Act.

pre-amended Act means this Act as in force immediately before the commencement.

repealed Planning Act means the repealed *Sustainable Planning Act 2009*.

741 Existing development application relating to prescribed ERA

(1) This section applies to an existing development application mentioned in former section 115.

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(2) The pre-amended Act continues to apply in relation to the application as if the amending Act had not been enacted.

(3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 288 applies.

742 Compliance permits given under repealed Planning Act

(1) This section applies to a compliance permit given under the repealed Planning Act before or after the commencement, if—

(a) an auditor gives the administering authority a copy of the compliance permit; and

(b) the administering authority had not complied with former section 382(2) for the compliance permit before the commencement.

(2) Former section 382(2) continues to apply in relation to the compliance permit as if the amending Act had not been enacted.

743 Existing development condition requiring a transitional environmental program

(1) This section applies to a development condition—

(a) mentioned in former section 332(1)(b); and

(b) that was in force immediately before the commencement.

(2) The condition continues in force, and the pre-amended Act continues to apply in relation to the condition, as if the amending Act had not been enacted.

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Part 25 Transitional provisions for Environmental Protection (Chain of Responsibility) Amendment Act 2016

743A Definitions for part

In this part—

amending Act means the *Environmental Protection (Chain of Responsibility) Amendment Act 2016*.

introduction day means the day the Bill for the amending Act was introduced into the Legislative Assembly.

transitional period means the period from the start of the introduction day to the day the amending Act commenced.

744 Amendment of environmental authority because of particular pre-commencement matter

(1) The reference in section 215(2)(c) to 'becomes a holder of the authority' is taken to include 'became a holder of the authority during the transitional period'.

(2) The reference in section 215(2)(d) to 'becomes a holding company of a holder of the authority' is taken to include 'became a holding company of a holder of the authority during the transitional period'.

745 Decision about related persons based on particular pre-commencement matters

(1) A reference in section 363AB to a relevant activity carried out by a company includes a relevant activity carried out before the commencement.

(2) In making a decision under section 363AB about whether a person has a relevant connection with a company, the matters the administering authority may consider include acts,

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omissions and circumstances occurring before the commencement.

746 Extension of power to issue environmental protection orders to particular persons

(1) The power under section 363AC or 363AD to issue an environmental protection order to a related person of a company includes power to issue an order to a person who—

(a) is not, at the time the order is issued, a related person of the company; but

(b) was, during the transitional period, a related person of the company.

(2) For the purpose of deciding if a person was, during the transitional period, a related person of a company, this Act applies as if the amending Act had commenced on the introduction day.

747 Requirements under environmental protection orders may relate to past matters

An environmental protection order issued under section 363AC or 363AD may impose requirements relating to a relevant activity carried out, or environmental harm caused, before the commencement.

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Part 26 Transitional provisions for Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016

748 Particular applications made but not decided before commencement

(1) This section applies if—

(a) an application of a type mentioned in section 126A or 227AA was made before the commencement; and

(b) immediately before the commencement, the application had not been decided.

(2) The application must be dealt with and decided as if the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016* had not commenced.

749 Administering authority to make decision on s 683 applications

(1) This section applies to an application of a type mentioned in section 683(1)(a) or (b) that was made, but not decided, before the commencement of that section.

(2) If, before the commencement of this section, the EPA Minister had not made a decision under former section 225 and former section 225 would have applied to the application, section 683(2) continues to apply to the application but the administering authority and not the EPA Minister must make the decision under former section 225.

(3) In this section—

EPA Minister means the Minister administering this Act.

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former section 225 means section 225 as in force immediately before the commencement of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*, section 7.

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

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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.

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—

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(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

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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 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).

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(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

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(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.

Note—

See also section 797.

(2) The notice must be given within the period—

(a) starting on the PRCP start date; and

(b) ending—

(i) on the day that is 3 years after the PRCP start date; or

(ii) if the environmental authority is issued on or after the day mentioned in subparagraph (i)—within 6 months after the environmental authority is issued.

(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

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(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

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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 notification stage applies subject to section 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.

(7) Without limiting subsection (6), in assessing, under section 126C(1)(i), an 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, the administering authority may have regard to—

(a) the historical context of operations on the land; and

(b) historical constraints related to existing infrastructure and approvals; and

(c) the extent to which it is practicable to apply current standards related to best practice management to the land.

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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 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.

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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

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assurance in relation to the resource activity that are given to the authority after the commencement.

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;

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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 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,

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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—

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(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

(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.

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(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

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(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 imposed under the pre-amended Act, section 21A.

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765A Application of part if holder of environmental authority changes

(1) This section applies if, on or after the commencement of a provision of this part (the ***relevant provision***)—

(a) a mining EA holder for an environmental authority stops being the holder of the environmental authority; and

(b) another person (the ***transferee***) becomes the holder of the environmental authority.

(2) From the day the transferee becomes the holder of the environmental authority (the ***transfer day***), a reference in the relevant provision to the mining EA holder is taken to include a reference to the transferee.

(3) If, before the transfer day, the administering authority gave a notice under section 754(1) to the mining EA holder, from the transfer day—

(a) the notice is taken to have been given to the transferee; and

(b) anything done by the mining EA holder to comply with the notice is taken to have been done by the transferee.

Note—

However, see section 848 in relation to transfers of environmental authorities to which this part applies.

765B Application of s 431A for particular mining EA holders

(1) This section applies—

(a) to a mining EA holder for a mining lease who was required to have a plan of operations under the pre-amended Act if, before 1 April 2019—

(i) the holder gave a plan of operations for the mining lease to the administering authority; and

(ii) the plan period for the holder's plan of operations ended; and

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(iii) a new plan of operations was not given to the administering authority; or

(b) to a mining EA holder for a mining lease who was required to have a plan of operations under the pre-amended Act but, at the beginning of 1 April 2019, had not complied with the requirement; or

(c) to a mining EA applicant who became or becomes a mining EA holder on or after 1 April 2019.

(2) However, this section applies only if section 431A has not started to apply to the holder before the commencement.

(3) Section 431A does not apply to the holder until the earlier of the following days—

(a) the day the holder fails to give the administering authority 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 the holder fails to comply with a notice given to the holder under section 754 because—

(a) the holder purported to give the administering authority a proposed PRC plan in compliance with the notice; and

(b) the administering authority has given the holder written notice for a decision to refuse to approve the proposed PRCP schedule for the proposed PRC plan.

(5) Section 431A does not apply to the holder until—

(a) if the holder reapplies for approval of another proposed PRCP schedule within 40 business days after the written notice mentioned in subsection (4)(b) was 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) was given.

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Part 28 Transitional provisions for Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019

767 Definitions for part

In this part—

amendment Act means the *Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019*.

previous, for a provision of this Act, means as in force from time to time before the commencement.

768 Initial agricultural ERA standards

(1) This section applies to a document if—

(a) on or before the commencement, the chief executive makes the document as though it was an ERA standard made under section 318; and

(b) the document states it is an agricultural ERA standard for section 81; and

(c) sections 318A and 318B were not complied with in relation to the standard before it was made.

(2) A regulation under section 318D may approve the document as an ERA standard even though sections 318A and 318B were not complied with before the standard was made.

769 Recognition of existing accreditation programs

(1) An accreditation program for an agricultural ERA prescribed by regulation for this section within 6 months after the

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commencement is taken to have been recognised for the agricultural ERA by the chief executive under chapter 5A, part 5A.

(2) The following are conditions of the recognition of an accredited program for an agricultural ERA under subsection (1)—

(a) within 6 months after the regulation mentioned in subsection (1) commences, the owner of the program must—

(i) ensure the program is consistent with each agricultural ERA standard that applies to the agricultural ERA; and

(ii) if the owner amends the program so it is consistent with an agricultural ERA standard—give the chief executive a copy of the amended program; and

(iii) ensure each person mentioned in section 770 is carrying out the agricultural ERA in a way that does not contravene an agricultural ERA standard that applies to the agricultural ERA;

(b) another condition imposed by the chief executive within 3 months after the regulation commences.

(3) If the chief executive decides to impose a condition under subsection (2)(b)—

(a) the chief executive must give the owner of the accreditation program an information notice for the decision; and

(b) the decision is taken to be an original decision for chapter 11, part 3.

(4) The recognition of an accreditation program under subsection (1), or the imposition of a condition under subsection (2)(b), does not affect a power of the chief executive to decide an application or take other action in relation to the program or condition under chapter 5A, part 5A.

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770 Persons accredited under existing accreditation programs

(1) This section applies to a person who is accredited under an accreditation program for an agricultural ERA immediately before the program became a recognised program for the agricultural ERA under section 769(1).

(2) Section 82 does not apply to the person for the period that starts on the commencement and ends 6 months after the commencement.

771 Record keeping obligation for existing agricultural ERA continues

(1) This section applies in relation to—

(a) a record that was made, or required to be made, under previous section 83; and

(b) the relevant primary documents for the record required to be kept under previous section 84.

(2) Chapter 4A, part 2, division 2, as in force immediately before the commencement, continues to apply in relation to the record and relevant primary documents—

(a) from the commencement until the day that is 5 years after the record was made or required to be made; and

(b) as if this Act had not been amended by the amendment Act.

772 Proceedings for offences against previous provisions

(1) This section applies if a person is alleged to have committed an offence against previous section 78, 83, 84 or 86.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be punished for the offence, as if this Act had not been amended by the amendment Act.

(3) Subsection (2) applies despite the Criminal Code, section 11.

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773 Amnesty for environmental risk management plan offences

(1) This section applies to a person who carries out an agricultural ERA if—

(a) before the commencement—

(i) the person carried out an agricultural ERA for which there was an accredited ERMP; and

(ii) the period for which the accredited ERMP applied ended; and

(b) during the amnesty period, the person was required to have an accredited ERMP for the agricultural ERA under previous section 88.

(2) An ERMP direction given to the person under previous chapter 4A, part 3, division 1 during the amnesty period has no effect.

(3) Previous sections 92 and 105 are taken not to have applied to the person during the amnesty period.

(4) In this section—

amnesty period, for an agricultural ERA carried out under an accredited ERMP, means the period that—

(a) starts at the end of the period for which the accredited ERMP for the agricultural ERA applied; and

(b) ends on the commencement.

774 Review of impact of ch 4A on contaminant levels

(1) The Minister must review the extent to which chapter 4A has been effective in reducing the load of the following contaminants in the water in river basins in the Great Barrier Reef catchment—

(a) dissolved inorganic nitrogen in the water;

(b) sediment suspended in the water.

(2) The review must be—

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(a) started no earlier than 3 years, and no later than 3 years and 3 months, after the commencement of chapter 4A; and

(b) completed within 1 year.

(3) The Minister must, as soon as practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.

(4) In this section—

load, of a contaminant that enters water, see section 77(5).

Part 29 Transitional provisions for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020

775 Continued effect of temporary authorities under expired ch 11A, pt 1

(1) This section applies if, immediately before the expiry of chapter 11A, part 1, a temporary authority issued under that part was in effect.

(2) Despite the expiry of that part, the temporary authority continues to have effect for the period stated in the authority.

776 Continuation of exemption given under expired ch 11A, pt 2

(1) This section applies if, immediately before the expiry of chapter 11A, part 2, an exemption given under a declaration made under that part was in effect.

(2) Despite the expiry of that part, the exemption continues to have effect for the exemption period stated in the declaration.

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Part 30 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2020

777 Definition for part

In this part—

amendment Act means the *Environmental Protection and Other Legislation Amendment Act 2020*.

778 Existing applications for environmental authorities

(1) This section applies to an application for an environmental authority made, but not decided, under this Act before the commencement.

(2) Chapter 5, parts 2 to 5 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

779 Existing amendment applications

(1) This section applies to an amendment application made, but not decided, under this Act before the commencement.

(2) Chapter 5 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

780 Existing amalgamation and de-amalgamation applications

(1) This section applies to an amalgamation or de-amalgamation application made, but not decided, under this Act before the commencement.

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(2) Chapter 5, part 8 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

781 Existing transfer applications

(1) This section applies if a transfer application is made, but not decided, under this Act before the commencement.

(2) Chapter 5, part 9 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

(3) Section 256(2) as in force immediately before the commencement applies in relation to an entity if—

(a) the transfer application is decided after the commencement; and

(b) the entity is issued a transferred environmental authority; and

(c) the entity is not the owner of the land to which the authority relates.

782 Existing surrender applications

(1) This section applies to a surrender application made, but not decided, under this Act before the commencement.

(2) Chapter 5, part 10 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

783 Existing suspension periods for environmental authorities

(1) This section applies if—

(a) a proposed action decision to suspend an environmental authority took effect before the commencement; and

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(b) the suspension period had not ended immediately before the commencement.

(2) Chapter 5, part 11 as in force immediately before the commencement applies to the environmental authority as if the amendment Act had not been enacted.

784 Existing de-amalgamated environmental authorities

(1) This section applies if—

(a) before the commencement—

(i) the administering authority de-amalgamated an environmental authority under section 250C; and

(ii) neither of the following things happened—

(A) the administering authority directed each of the holders of a de-amalgamated environmental authority, under pre-amended section 303(2)(a), to re-apply for an ERC decision;

(B) the holder of a de-amalgamated environmental authority was required, under pre-amended section 304(2)(d), to re-apply for an ERC decision; and

(b) after the commencement, either of the things mentioned in paragraph (a)(ii)(A) or (B) would be able to happen if the amendment Act had not been enacted.

(2) Chapter 5, part 14, division 1 as in force immediately before the commencement applies to the de-amalgamated environmental authority as if the amendment Act had not been enacted.

(3) In this section—

pre-amended, in relation to a provision of this Act, means the provision as in force before the commencement.

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785 Existing re-applications for ERC decisions

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

(a) either—

(i) the administering authority directed each of the holders of a de-amalgamated environmental authority, under pre-amended section 303(2)(a), to re-apply for an ERC decision; or

(ii) the holder of a de-amalgamated environmental authority was required, under pre-amended section 304(2)(d), to re-apply for an ERC decision; and

(b) the ERC decision re-applied for had not taken effect.

(2) Chapter 5, part 14, division 1 as in force immediately before the commencement applies to the re-application for the ERC decision as if the amendment Act had not been enacted.

(3) In this section—

pre-amended, in relation to a provision of this Act, means the provision as in force before the commencement.

786 Application of s 303 to ERC decisions made before commencement

Section 303(1)(c) applies to an ERC decision whether the ERC decision was made before or after the commencement.

787 Application of provisions in relation to environmental authorities held by entities

(1) This section applies in relation to—

(a) an environmental authority held on the commencement by an entity that is not a person; or

(b) an environmental authority issued, under this part, after the commencement to an entity that is not a person.

(2) This Act applies in relation to the environmental authority as if a reference in a provision to a person in the context of the

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holder of the authority included a reference to an entity that is not a person.

788 Existing applications for registration of suitable operators

(1) This section applies to an application to be registered as a suitable operator made, but not decided, under this Act before the commencement.

(2) Chapter 5A, part 4 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

789 Existing progressive certification applications

(1) This section applies to a progressive certification application made, but not decided, under this Act before the commencement.

(2) Chapter 5A, part 6 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

790 Existing review applications

(1) This section applies if a review application is made, but not decided, under this Act before the commencement.

(2) Section 521 as in force immediately before the commencement applies to the review application and a related application for the review application as if the amendment Act had not been enacted.

(3) In this section—

related application, for a review application (the ***first review application***), means a review application in relation to the original decision to which the first review application relates.

review application means an application under section 521.

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791 Existing applications for stays

(1) This section applies to an application for a stay made, but not decided, under this Act before the commencement.

(2) Chapter 11, part 3 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

Part 31 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2023

Division 1 Preliminary

792 Definitions for part

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2023*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

Division 2 Transitional environmental programs

793 Existing submission of draft transitional environmental program

(1) This section applies if—

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(a) before the commencement, a draft transitional environmental program had been submitted to the administering authority under this Act; and

(b) immediately before the commencement, the administering authority had not decided whether to approve the program.

(2) Chapter 7, part 3 as in force immediately before the commencement continues to apply in relation to the approval of the draft program as if the amending Act had not been enacted.

(3) If, after the commencement, the draft transitional environmental program is approved—

(a) the draft program is taken to be a transitional environmental program issued under new chapter 7, part 3; and

(b) a condition imposed on the approval of the draft program is taken to be a condition imposed on the program under new chapter 7, part 3.

794 Existing transitional environmental program

(1) An existing transitional environmental program continues in effect as if it had been issued under new chapter 7, part 3.

(2) For the application of new chapter 7, part 3 under subsection (1), all of the following apply—

(a) a requirement of the existing transitional environmental program is taken to be a provision of the program issued under new chapter 7, part 3;

(b) a condition imposed on the existing transitional environmental program is taken to be a condition imposed under new chapter 7, part 3;

(c) the date of issue of the program under new chapter 7, part 3 is taken to be the day the program was approved under the Act as in force before the commencement.

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(3) The administering authority must continue to keep in the register of transitional environmental programs under section 540(1)(k) existing documents and information for an existing transitional environmental program.

(4) In this section—

existing transitional environmental program means a transitional environmental program for which an approval was in effect under chapter 7, part 3 immediately before the commencement.

795 Proceeding for offence against former s 432A

(1) This section applies in relation to an offence against former section 432A committed entirely before the commencement by a person.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be punished for the offence, as if this Act had not been amended by the amending Act.

(3) Subsection (2) applies despite the Criminal Code, section 11.

Division 3 PRC plans

Subdivision 1 Application of pt 27 generally

796 Meaning of terms for division

If a term used in this division is defined in section 750, the term has the same meaning as it has under that section.

797 Application of pt 27 to holders of environmental authorities that have not taken effect

(1) A reference in part 27 to an environmental authority includes, and is taken to have always included, a reference to an

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environmental authority issued under section 195 that has not taken effect under section 200.

(2) To remove any doubt, it is declared that the administering authority must give each mining EA holder a notice under section 754, and sections 751 to 756 apply in relation to the holder, even if the environmental authority has not taken effect under section 200.

Subdivision 2 Application of pt 27 to particular amalgamated or de-amalgamated environmental authorities

798 Definitions for subdivision

In this subdivision—

applied provisions means the following provisions—

(a) sections 754 to 756;

(b) section 765B(3) to (5).

new EA see section 799(b).

original EA see section 799(a).

799 Application of subdivision

This subdivision applies if—

(a) on or after the PRCP start date, an environmental authority (the ***original EA***) held by a mining EA holder is or was, under chapter 5, part 8, amalgamated or de-amalgamated; and

(b) the amalgamated environmental authority or each de-amalgamated environmental authority is an environmental authority (each a ***new EA***) for a mining activity authorised under a mining lease; and

(c) a relevant activity for the new EA is an ineligible ERA; and

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(d) before the amalgamation or de-amalgamation of the original EA, a PRCP schedule was not approved for the original EA.

800 Application of applied provisions

(1) The applied provisions apply in relation to the holder of the new EA.

(2) For subsection (1)—

(a) the applied provisions apply in relation to the holder and new EA as if the holder had been the mining EA holder for the new EA on the commencement of part 27; and

(b) a reference in the applied provisions to a land outcome document is taken to be a reference to a land outcome document for the original EA, to the extent the document relates to land the subject of the new EA; and

(c) despite section 754(2)(b), the period mentioned in section 754(2) is taken to end on the day that is 6 months after the day the new EA is issued or, for a de-amalgamated environmental authority, the new EA otherwise takes effect.

801 Notice for original EA taken to have been withdrawn in particular circumstances

(1) This section applies if, before the amalgamation or de-amalgamation of the original EA—

(a) a notice had been given for the original EA under section 754(1); and

(b) a PRCP schedule had not been approved for the original EA.

(2) The notice for the original EA is taken to have been withdrawn when the new EA is issued or, for a de-amalgamated environmental authority, the new EA otherwise takes effect.

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Subdivision 3 Provision for approval of particular PRC plans

802 Particular holders may apply for PRC plan approval for pt 27

(1) This section applies if—

(a) a PRCP schedule is not approved for an environmental authority to which part 27 applies (including because of the operation of this division); and

Note—

See also section 849 for the application of subsection (1)(a).

(b) a PRCP schedule is required under this Act in relation to the authority; and

(c) no other provision of this Act enables the holder of the authority to apply for approval of a PRCP schedule for the authority.

(2) The holder of the environmental authority may ask the administering authority to assess a proposed PRC plan for the environmental authority.

(3) If the application is made within 5 years after the commencement of this section, sections 754(3) to (9) and 755 to 756 apply in relation to the proposed PRC plan as if—

(a) a notice had been given to the holder under section 754(1); and

(b) the proposed PRC plan had been given to the administering authority in compliance with the notice.

(4) If subsection (3) does not apply, the administering authority must assess the proposed PRC plan under chapter 5, parts 2 to 5, as if the PRC plan accompanied an application for an environmental authority for a relevant activity made under section 125(1)(n).

(5) Section 431A does not apply to the holder of the environmental authority during the following periods—

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(a) if, immediately before the relevant commencement day, the administering authority was not assessing a proposed PRC plan for the authority under part 27 or subsection (2)—the period of 60 business days from the relevant commencement day;

(b) if an application for assessment of a proposed PRC plan for the authority is made under subsection (2), whether before or after the relevant commencement day—

(i) the period for which the administering authority is assessing the proposed PRC plan; and

(ii) the period of 60 business days from the day the assessment ends, if the assessment ends without the proposed PRC plan being approved.

(6) For subsection (5), the ***relevant commencement day*** is the day the amendment of this section by the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2026* commences.

(7) To remove any doubt, it is declared that the holder of the environmental authority may ask the administering authority, under subsection (2), to assess a proposed PRC plan for the authority more than once.

Division 4 Miscellaneous

803 Existing EIS process—application of ch 3

(1) New sections 41A and 41B apply in relation to draft terms of reference for an EIS only if the draft is submitted under section 41 after the commencement.

(2) New sections 49, 49A, 56A and 56AA apply in relation to a submitted EIS after the commencement only if the draft terms of reference for the EIS is also submitted under section 41 after the commencement.

(3) New section 59A applies in relation to an EIS assessment report for a project given by the chief executive after the

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commencement only if the draft terms of reference for the EIS is also submitted under section 41 after the commencement.

804 Existing site-specific application—application of new s 172

New section 172 applies in relation to a site-specific application made but not decided before the commencement.

805 Existing amendment application—application of s 230

(1) This section applies if—

(a) before the commencement, the administering authority received an amendment application under chapter 5, part 7, division 2; and

(b) immediately before the commencement, the administering authority had not made an assessment level decision for the application.

(2) New section 230 applies in relation to the amendment application.

806 Suspension—application of s 278B

Section 278B applies in relation to a suspension that takes effect after the commencement.

807 Application of new s 493

To remove any doubt, it is declared that new section 493(6) does not apply to an executive officer of a corporation in relation to an offence committed by the corporation if either of the following happened before the commencement—

(a) the offence was committed;

(b) the act or omission that caused the offence to be committed.

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808 Orders under new s 506A

(1) A court may make an order under new section 506A in relation to a person only if the person is convicted of a serious environmental offence committed after the commencement.

(2) Subsection (1) does not prevent the court from considering serious environmental offences committed by the person before the commencement for applying new section 506A(1)(b).

Part 32 Transitional provisions for Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024

809 Definitions for part

In this part—

amending Act means the *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

unamended Act means this Act as in force from time to time before the commencement.

810 Unamended Act continues to apply in relation to particular instruments

(1) The unamended Act continues to apply in relation to any of the following (each a ***relevant instrument***) issued under the unamended Act before the commencement, as if the amending Act had not been enacted—

(a) an environmental protection order;

(b) a direction notice;

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(c) a clean-up notice;

(d) a cost recovery notice.

(2) For subsection (1)—

(a) a review or appeal may be continued or started in relation to the relevant instrument under the unamended Act as if the amending Act had not been enacted; and

(b) any stay of a decision relating to the relevant instrument continues in effect under the unamended Act as if the amending Act had not been enacted.

(3) Also—

(a) a cost recovery notice may be issued in relation to a relevant instrument mentioned in subsection (1)(a) or (c) under the unamended Act as if the amending Act had not been enacted; and

(b) the unamended Act applies in relation to the cost recovery notice as if the amending Act had not been enacted.

811 Proceedings for particular offences relating to particular instruments

(1) This section applies in relation to an offence committed by a person—

(a) before the commencement, against a relevant offence provision; or

(b) after the commencement, against a relevant offence provision as continued under section 810.

(2) A proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the amending Act had not been enacted.

(2A) A reference in subsection (2) to a proceeding for the offence includes, for an offence against a relevant infringement notice offence provision, a reference to action by way of an infringement notice under the *State Penalties Enforcement Act 1999* and, for that purpose, the *State Penalties Enforcement*

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Regulation 2014 applies as if it had not been amended by the amending Act.

(3) Subsections (2) and (2A)—

(a) do not limit the *Acts Interpretation Act 1954*, section 20; and

(b) apply despite the Criminal Code, section 11.

(3A) Any action under the *State Penalties Enforcement Act 1999* taken in relation to a relevant infringement notice offence provision before the commencement of subsection (2A) is taken to be, and to have always been, as valid as if subsection (2A) were in force when the action was taken.

(4) In this section—

relevant infringement notice offence provision means a relevant offence provision that, immediately before the commencement of the amending Act, part 4, was mentioned in the *State Penalties Enforcement Regulation 2014*, schedule 1, entry for *Environmental Protection Act 1994*.

relevant offence provision means any of the following provisions of the unamended Act—

(a) section 361;

(b) section 362;

(c) section 363;

(d) section 363E;

(e) section 363I;

(f) section 363L.

812 Registers of particular documents to be kept

(1) The administering authority must continue to keep a register of the following instruments issued under the unamended Act before the commencement—

(a) environmental protection orders;

(b) direction notices;

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(c) clean-up notices.

(2) A reference in this Act to a register kept under section 540 is taken to include a reference to a register kept under subsection (1).

813 References to environmental protection orders, direction notices and clean-up notices

A reference in an instrument to any of the following may, if the context permits, be taken to be a reference to an environmental enforcement order—

(a) an environmental protection order;

(b) a direction notice;

(c) a clean-up notice.

814 Environmental enforcement order may be issued in relation to particular conduct

(1) The administering authority may issue an environmental enforcement order for conduct engaged in before the commencement.

(2) Subsection (1)—

(a) applies even if the administering authority was aware of the conduct, or had started considering taking action under the unamended Act in relation to the conduct, before the commencement; but

(b) does not apply in relation to conduct for which an order or notice mentioned in section 810(1) was issued before the commencement.

815 Application of s 319C

Section 319C applies only in relation to an incident involving contamination of the environment that happens after the commencement.

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816 Application of s 440A to proceedings for offences

Section 440A applies only in relation to a proceeding for an offence that is started after the commencement.

817 Continuation of particular guideline

(1) This section applies in relation to the guideline called 'Issuing 'chain of responsibility' environmental protection orders under chapter 7, part 5, division 2 of the *Environmental Protection Act 1994*' approved under section 548A(2) before the commencement.

(2) The guideline continues in effect under this Act—

(a) for an environmental protection order issued before the commencement, for the purposes of section 810; and

(b) for an environmental enforcement order, as provided under subsection (3), until a new guideline for environmental enforcement orders is approved under section 548A(2).

(3) For applying the guideline for an environmental enforcement order—

(a) the guideline is taken to have been approved under section 548A(2) for environmental enforcement orders; and

(b) a reference in the guideline to an environmental protection order is taken to be a reference to an environmental enforcement order; and

(c) a reference in the guideline to a provision of former chapter 7, part 5, division 2 is taken to be a reference to the corresponding provision of chapter 7, part 5, division 2, 3 or 4.

(4) In this section—

corresponding provision, for a provision of former chapter 7, part 5, division 2, means the provision of chapter 7, part 5, division 2, 3 or 4 dealing with the same subject matter as the provision of former chapter 7, part 5, division 2.

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Part 33 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024

818 Definitions for part

In this part—

former authority see section 819(1).

new, for a provision of this Act, means the provision as in force from the commencement.

relevant amendment means an amendment of this Act by the *Mineral and Energy Resources and Other Legislation Amendment Act 2024*, part 2A.

819 Ending of particular environmental authorities

(1) On the commencement, both of the following environmental authorities (each a ***former authority***) are ended—

(a) the environmental authority with the environmental authority number 'EPPG00646913';

(b) the environmental authority with the environmental authority number 'P-EA-100365782'.

(2) Subsections (3) and (4) apply in relation to the former authority mentioned in subsection (1)(a).

(3) Despite subsection (1), conditions 58 to 60 of the former authority continue to apply as if the authority had not ended.

Note—

See the GHG storage Act, section 459 in relation to a right of entry to facilitate compliance with conditions 58 to 60.

(4) Until conditions 58 to 60 have been complied with, the administering authority for the former authority must not give a notice, mentioned in the *Mineral and Energy Resources*

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(Financial Provisioning) Act 2018, section 58(4), for the former authority.

820 Applications made before commencement

(1) This section applies in relation to each of the following applications (each a ***relevant application***) made before the commencement—

(a) an application for an environmental authority for a GHG storage activity if the relevant tenure for the application is a relevant proposed GHG permit;

(b) an amendment application mentioned in new section 225(4);

(c) an amendment application for a former authority.

(2) If the relevant application was not decided before the commencement, the relevant application is taken to be withdrawn on the commencement.

(3) Subsections (4) and (5) apply if—

(a) an original decision was made in relation to the relevant application before the commencement; and

(b) no review decision for the original decision was made before the commencement.

(4) If, on the commencement, the review application period for the original decision has not ended, the review application period for the original decision is taken to have ended.

(5) If, on the commencement, an application for review of the original decision has not been finally dealt with, the application for review is taken to be withdrawn.

(6) Subsections (7) and (8) apply if—

(a) an original decision was made in relation to the relevant application before the commencement; and

(b) a review decision for the original decision was made before the commencement.

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(7) If, on the commencement, the appeal period for the review decision has not ended, the appeal period for the review decision is taken to have ended.

(8) If, on the commencement, an appeal against the review decision has not been finally dealt with—

(a) the appeal is taken to be withdrawn; and

(b) if a court has started to hear the appeal—the court must stop hearing the appeal.

(9) In this section—

appeal period, for a review decision, means the period mentioned in section 525 or 532(2) or (3).

CTSCo means Carbon Transport and Storage Corporation (CTSCo) Pty Limited ACN 143 012 971.

Origin means Origin Energy Future Fuels Pty Ltd ACN 105 431 534.

relevant proposed GHG permit means each of the following proposed GHG permits—

(a) the proposed GHG permit applied for by CTSCo and described as 'EPQ12';

(b) the proposed GHG permit applied for by Origin and described as 'EPQ16';

(c) the proposed GHG permit applied for by Origin and described as 'EPQ17'.

review application period, for an original decision, see section 521(2)(a).

821 Application of new s 206 to environmental authorities issued before commencement

(1) This section applies in relation to an environmental authority issued before the commencement (the ***existing environmental authority***).

(2) New section 206 applies in relation to the existing environmental authority.

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(3) Despite section 210, if there is any inconsistency between the condition imposed under new section 206(2) (the ***new condition***) and another condition of the existing environmental authority, the new condition prevails to the extent of the inconsistency.

822 No compensation payable by the State

(1) No compensation is payable by the State to any person for or in connection with the enactment or operation of a relevant amendment or anything done to carry out or give effect to a relevant amendment.

(2) This section applies despite any other Act or law.

823 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—

(i) from the operation of this Act as in force before the commencement of a relevant amendment; and

(ii) to the operation of this Act as in force after the commencement of the relevant amendment; and

(b) this Act does not provide or sufficiently provide.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment commences.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This section and any transitional regulation expire on the day that is 3 years after the day this section commences.

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Part 34 Validation and transitional provisions for Nature Conservation and Other Legislation Amendment Act 2025

824 Validation of environmental authorities purportedly issued for particular standard applications

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

(a) a standard application was made for an environmental authority; and

(b) the application was purportedly approved under former section 170(2)(a) by the operation of an automated system; and

(c) the authority was purportedly issued under former section 195(2)(a) by the operation of an automated system.

(2) Both of the following apply—

(a) the standard application is taken to have been approved by a decision of the administering authority;

(b) the environmental authority is taken to have been issued by the administering authority at the relevant time.

(3) Anything done or omitted to be done that would have been valid and lawful under this Act or another Act, had the standard application been approved by a decision of the administering authority, and had the environmental authority been issued by the administering authority at the relevant time, is taken to be, and always to have been, valid and lawful.

(4) In this section—

automated system means an electronic system operated from time to time by a person performing a function under this Act for an administering authority.

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former, for a provision, means the provision as in force from time to time before the commencement.

relevant time, in relation to an environmental authority, means the time the authority was purportedly issued by the operation of an automated system.

825 Electronic system approved before commencement

(1) This section applies if—

(a) before the commencement, the chief executive approved the use of an electronic system for the purpose of automatically issuing an environmental authority for a relevant standard application; and

(b) immediately before the commencement, the approval was in effect.

(2) The electronic system is taken to be approved by the chief executive under section 555(1) for the same purpose for the period—

(a) starting on the commencement; and

(b) ending when the chief executive cancels the approval, whether to give a new approval under section 555(1) or otherwise.

(3) In this section—

relevant standard application means a standard application, other than an application for a mining activity relating to a mining lease.

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Part 35 Transitional provisions for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2026

Division 1 Preliminary

826 Definitions for part

In this part—

amendment Act means the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2026*.

former, in relation to a provision of this Act, means the provision as in force from time to time before the commencement of the transitional provision in which the term is used.

new, in relation to a provision of this Act, means the provision as in force from the commencement of the transitional provision in which the term is used.

transitional provision means a provision of this part.

unamended Act means this Act as in force before the commencement of the transitional provision in which the term is used.

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Division 2 Transitional provisions for amendments commencing on assent

Subdivision 1 Public interest evaluations

827 Definition for subdivision

In this subdivision—

public interest evaluation means a public interest evaluation under former section 112.

828 Ending of relevant matters in relation to existing public interest evaluations

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

(a) either—

(i) an EIS was submitted by a proponent; or

(ii) a person gave a proposed PRC plan to the administering authority for assessment; and

(b) either—

(i) the chief executive asked a qualified entity, under former section 49(5B), to carry out a public interest evaluation and give the chief executive a report about the evaluation that complied with former section 316PB; or

(ii) the administering authority asked a qualified entity, under former section 136A(2), to carry out a public interest evaluation and give the administering authority a report about the evaluation that complied with former section 316PB; and

(c) a relevant matter, or the period for carrying out a relevant matter, in relation to the evaluation had not ended under the former provisions of this Act.

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(2) On the commencement, the relevant matter, or a requirement to carry out the relevant matter, ends.

(3) From the commencement, the new provisions of this Act apply for—

(a) the completion of the EIS process for the EIS; or

(b) the assessment of the proposed PRC plan.

(4) However, subsection (3)(a) does not apply in relation to the terms of reference stage for the EIS.

Note—

See section 837 in relation to draft terms of reference submitted before the commencement.

(5) To the extent this section is inconsistent with section 755, 778 or 802, this section prevails to the extent of the inconsistency.

(6) This section applies subject to sections 829 to 836.

(7) In this section—

relevant matter, in relation to a public interest evaluation, means each of the following matters—

(a) the carrying out of the evaluation;

(b) the preparation and giving of a proposed report about the evaluation;

(c) the making of submissions about a proposed report about the evaluation;

(d) the consideration of submissions about a proposed report about the evaluation;

(e) the preparation and giving of a final report about the evaluation;

(f) the preparation and giving of a response to a report about the evaluation;

(g) the consideration of a response to, or recommendations made in, a report about the evaluation;

(h) the making of a decision based on a report about the evaluation;

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(i) a request for a review of a report about the evaluation;

(j) a review of a report about the evaluation.

829 Modified application of new s 56—giving proponent a copy of submissions

(1) This section applies in relation to an EIS if, before the commencement—

(a) under former section 49(5B), the chief executive had asked a qualified entity to give the chief executive a report about a public interest evaluation for a proposed non-use management area; and

(b) the qualified entity had not given the chief executive the report; and

(c) the submission period had ended, but the chief executive had not given the proponent a copy of each submission accepted by the chief executive.

(2) Despite new section 56(1), the chief executive must, within 10 business days after the day of the commencement, give the proponent a copy of each submission accepted by the chief executive.

830 Modified application of new s 56—period for proponent's response to submissions

(1) This section applies in relation to an EIS if, before the commencement—

(a) a public interest evaluation was carried out for a proposed non-use management area; and

(b) an entity asked for a review of a report about the public interest evaluation under former section 316PC; and

(c) the proponent had not complied with former section 56(2).

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(2) For applying new section 56(2), new section 56(3), definition *relevant period*, paragraph (a) is taken to refer to 20 business days after the day of the commencement.

831 Modified application of new s 56A—period for chief executive's consideration of EIS etc.

(1) This section applies in relation to an EIS if, before the commencement—

(a) a public interest evaluation was carried out for a proposed non-use management area; and

(b) an entity asked for a review of a report about the public interest evaluation under former section 316PC; and

(c) the chief executive had accepted a submission under section 55, but had not complied with former section 56A(2).

(2) For applying new section 56A(2), new section 56(3), definition *relevant period*, paragraph (a) is taken to refer to 20 business days after the day of the commencement.

832 Starting of decision stage for particular site-specific applications

(1) This section applies in relation to a site-specific application if, before the commencement—

(a) the administering authority asked a qualified entity, under former section 136A, to give the chief executive a report about a public interest evaluation; and

(b) the decision stage for the application had not started only because of the operation of former section 167A.

(2) The decision stage starts on the day of the commencement.

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833 Restarting of assessment process suspended under former s 167B(3)

(1) This section applies in relation to a site-specific application if, before the commencement—

(a) the applicant had asked the administering authority, under former section 167B(2), to suspend the assessment process; and

(b) the assessment process had not restarted under former section 167B(3).

(2) The assessment process restarts on the earlier of the following days—

(a) the day notified by the applicant to the administering authority whether notified before or after the commencement;

(b) the day that is 18 months after the day the decision stage started for the application.

834 Restarting of assessment process suspended under former s 167B(6)

(1) This section applies in relation to a site-specific application if, before the commencement—

(a) under former section 316PC, an entity had asked the chief executive for a review of a report about a public interest evaluation in relation to the application; and

(b) the assessment process had not restarted under former section 167B(6).

(2) The assessment process restarts on the earlier of the following days—

(a) the day notified by the applicant to the administering authority whether notified before or after the commencement;

(b) the day that is 18 months after the day of the commencement.

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835 No debt payable by third party entity under former s 316PD

(1) This section applies if, before the commencement, costs were reasonably incurred by the administering authority or the chief executive as mentioned in former section 316PD.

(2) From the commencement, the costs are no longer a debt payable by a third party entity.

(3) To remove any doubt, it is declared that a debt that arose under former section 316PD but was not paid before the commencement is, from the commencement, no longer payable by a third party entity.

(4) In this section—

third party entity means an entity other than the administering authority or the State.

836 Continuation of confidentiality of public interest evaluation

(1) This section applies if—

(a) immediately before the commencement, former section 316PE applied to a person; and

(b) on the commencement, new section 579D does not apply to the person.

(2) Former section 316PE(2) to (4) continues to apply in relation to the person as if the amendment Act had not been enacted.

(3) To remove any doubt, it is declared that a proceeding for an offence against former section 316PE(2) may, after the commencement, be started or continued under that section as if the amendment Act had not been enacted.

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Subdivision 2 Other matters

837 Draft terms of reference submitted before commencement

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

(a) a proponent submitted to the chief executive draft terms of reference for an EIS; and

(b) the chief executive had not published the final terms of reference for the EIS.

(2) The following provisions continue to apply in relation to the EIS as if the amendment Act had not been enacted—

(a) former chapter 3, part 1, division 2;

(b) former sections 65, 67 and 68;

(c) former schedule 2, part 1, division 1 to the extent it applied to an original decision under former section 41A(1)(b), 43(3)(c) or 68(3)(b);

(d) the *Environmental Protection Regulation 2019*, former chapter 2, part 3.

838 Information stage does not apply to application made before commencement if IAR evaluated

New section 139 applies in relation to an application for an environmental authority—

(a) whether the application was made before or after the commencement; and

(b) whether an IAR relevant to the application was evaluated before or after the commencement.

839 Notification stage does not apply to application made before commencement if draft IAR publicly notified

New section 150 applies in relation to an application for an environmental authority—

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(a) whether the application was made before or after the commencement; and

(b) whether a draft IAR relevant to the application was publicly notified before or after the commencement.

840 Continuation of former s 238 for particular changes to amendment applications made before commencement

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

(a) an applicant gave the administering authority written notice of a change to an amendment application; and

(b) the change was not a minor change; and

(c) the administering authority had not given its written agreement to the change.

(2) Former section 238 continues to apply in relation to the change to the amendment application as if the amendment Act had not been enacted.

841 Application of new ch 5, pt 10, div 6 for residual risks requirement given after commencement

New chapter 5, part 10, division 6 applies in relation to a residual risks requirement given after the commencement, whether the surrender application to which the requirement relates was made before or after the commencement.

842 Application of new s 273A to existing residual risks requirement

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

(a) the administering authority had given an applicant a residual risks requirement under former section 271(2); and

(b) the stated reasonable period mentioned in former section 271(2) had not ended.

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(2) New section 273A applies in relation to extending the period for compliance with the residual risks requirement as if the reference in new section 273A(1) to the 6-month period mentioned in section 271(2) were a reference to the stated reasonable period mentioned in former section 271(2).

843 Application of new s 276 in relation to existing residual risks requirement

(1) This section applies if—

(a) before the commencement—

(i) the administering authority had given an applicant a residual risks requirement under former section 271(2); and

(ii) the stated reasonable period mentioned in former section 271(2) had not ended; and

(b) after the commencement, the applicant does not comply with the residual risks requirement within—

(i) the stated reasonable period; or

(ii) if the administering authority extends the period under new section 273A, as applied by section 842—the extended period.

(2) New section 276(3) applies in relation to the applicant as if a reference to a period in new section 276(3)(a) or (b) were a reference to the period mentioned in subsection (1)(b)(i) or (ii).

844 Continuation of audits of PRCP schedules started before commencement

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

(a) an audit period, within the meaning of former section 285, had ended for the holder of a PRCP schedule; and

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(b) the holder had not given the administering authority an audit report, within the meaning of former section 285, for the audit period.

(2) Former section 285 continues to apply in relation to the holder as if the amendment Act had not been enacted.

(3) A reference in new section 285(2)(b) to an audit report for the PRCP schedule given under new section 285 includes a reference to an audit report for the schedule given under former section 285.

845 Continuation of former ss 462 and 463 in relation to things seized before commencement

(1) This section applies in relation to a thing seized by an authorised person under former chapter 9 before the commencement.

(2) Former sections 462 and 463 continue to apply in relation to the thing as if the amendment Act had not been enacted.

846 Limitation period for particular summary proceedings

(1) This section applies in relation to a proceeding, by way of summary proceeding under the *Justices Act 1886*, for an offence against this Act that was committed before the commencement.

(2) Former section 497 continues to apply in relation to starting the proceeding as if the amendment Act had not been enacted.

847 Register of particular TOR documents to be kept by chief executive

(1) The chief executive must continue to keep a register of the following in relation to an EIS submitted before the commencement—

(a) the submitted draft terms of reference for the EIS;

(b) written summaries of comments given to the chief executive about the draft terms of reference for the EIS;

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(c) the proponent's response to the comments mentioned in paragraph (b).

(2) A reference in this Act to a register kept under section 540A is taken to include a reference to the register kept under subsection (1).

848 Transfers of environmental authorities to which pt 27 applies

(1) This section applies if, after the commencement—

(a) a person (the ***transferee***) becomes the holder of an environmental authority to which part 27 applies; and

(b) a PRCP schedule is not approved for the authority.

(2) Within 60 business days after the transfer day, the administering authority may, with the agreement of the transferee, give the transferee a notice mentioned in subsection (3) (a ***restart notice***).

Note—

If the administering authority does not give a restart notice to the transferee, see section 765A.

(3) The restart notice must state a period of at least 6 months, from the day the notice is given, within which the transferee may, under section 802(2), ask the administering authority to assess a proposed PRC plan for the environmental authority.

(4) If the administering authority gives the transferee a restart notice—

(a) section 765A(2) does not apply, and is taken not to have applied from the transfer day; and

(b) without limiting section 802(5), section 431A does not apply to the transferee during the period—

(i) starting on the transfer day; and

(ii) ending on the last day of the period stated in the restart notice under subsection (3); and

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(c) if, before the transfer day, the administering authority had given a notice under section 754(1) to the previous holder of the environmental authority—

(i) the notice given under section 754(1) stops having effect, and is taken to have stopped having effect from the transfer day; and

(ii) section 765A(3) does not apply, and is taken not to have applied from the transfer day; and

(d) if, immediately before the restart notice was given, the administering authority was assessing an application for a proposed PRC plan for the environmental authority, the application is taken to have been withdrawn on the giving of the restart notice.

(5) In this section—

transfer day, for an environmental authority mentioned in subsection (1), means the day the transferee becomes the holder of the authority.

849 Application of new s 802

New section 802(1)(a) applies—

(a) regardless of the reason a PRCP schedule has not been approved; and

Examples of reasons a PRCP schedule may not have been approved—

- The holder of an environmental authority failed to comply with a notice given under section 754.
- The holder of an environmental authority did not receive a notice required to be given to the holder under section 754.
- The administering authority gave the holder of an environmental authority a written notice refusing to approve a proposed PRCP schedule.
- The application to which a proposed PRCP schedule relates lapsed or was withdrawn.

(b) whether the reason arose before or after the commencement.

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Division 4 Transitional regulation

861 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—

(i) from the operation of this Act as in force before the commencement of a relevant amendment; and

(ii) to the operation of this Act as in force after the commencement of the relevant amendment; and

(b) this Act does not provide or sufficiently provide.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment to which the regulation relates commences.

(3) A transitional regulation must declare it is a transitional regulation.

(4) A transitional regulation—

(a) may be made for a relevant amendment within 2 years after the relevant amendment commences; and

(b) expires on the day that is 2 years after the day the relevant amendment commences.

(5) This division expires on the day that is 2 years after the day the last relevant amendment commences.

(6) In this section—

relevant amendment means an amendment of this Act by the amendment Act.

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Part 36 Transitional provision for Regional Planning Interests (Condamine Alluvium) and Other Legislation Amendment Act 2026

862 Non-application of s 206(3) to particular existing or proposed wells

(1) Section 206(3) as in force on the commencement does not apply in relation to a well—

(a) that, on the commencement, is authorised under an environmental authority; or

(b) that is the subject of an existing application granted after the commencement.

(2) Subsection (1) continues to apply to the well even if—

(a) the environmental authority authorising the well—

(i) is amended to expand or otherwise change the stages of the operation of the well that are authorised under the authority; or

(ii) is replaced by a new environmental authority authorising the operation of the well; or

(b) the holder of the environmental authority authorising the well changes.

Note—

See schedule 4, definition *holder*, paragraphs 3 and 4.

(3) In this section—

existing application means either of the following applications made but not decided before the commencement—

(a) an application for an environmental authority;

(b) an amendment application for an environmental authority.

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operation, of a well, see section 206(5) as in force on the commencement.

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Schedule 1 Exclusions relating to environmental nuisance or environmental harm

sections 17A, 440 and 440Q

Part 1 Environmental nuisance excluded from sections 440 and 440Q

1 Safety and transport noise

Environmental nuisance caused by any of the following types of noise—

(a) noise from an audible traffic signal, at pedestrian lights under the Queensland Road Rules, that complies with AS 1742.10—2009 'Pedestrian control and protection';

Editor's note—

A copy of AS 1742.10 may be inspected, free of charge, at the department's office at level 3, 400 George Street, Brisbane.

(b) noise from a warning signal for a railway crossing;

(c) safety signal noise from a reversing vehicle;

(d) noise necessary for the safe operation of a ship, or noise from the operation of a ship in a port, including noise from—

(i) machinery and equipment; or

(ii) shore and ship based port operations for loading onto, or unloading from, a ship, items other than bulk goods; or

(iii) ship to shore communications relating to safe berthing and cargo handling; or

(iv) a ship's horn;

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(e) noise from aircraft movement;

(f) noise from the ordinary use of a public road or State-controlled road;

(g) noise from the ordinary use of a busway, light rail or rail transport infrastructure.

2 Government activities and public infrastructure

Environmental nuisance caused in the course of any of the following activities—

(a) maintaining a public road, State-controlled road, railway or other infrastructure for public transport;

(b) maintaining a public infrastructure facility, including—

(i) infrastructure for a water or sewerage service; and

(ii) a facility for a telecommunication or electricity system;

(c) performing a function under the *Disaster Management Act 2003*;

(d) in the case of the State or a local government—preventing or removing, or reducing the risk to public health from, a public health risk under the *Public Health Act 2005*.

3 Nuisance regulated by other laws

Environmental nuisance caused by any of the following—

(a) an act or omission that is a contravention of a local law;

(b) an act done, or omission made, under an authority given under a local law;

(c) noise to which the *Police Powers and Responsibilities Act 2000*, chapter 19, part 3 applies;

(d) an emission of a contaminant at a workplace, within the meaning given by the *Work Health and Safety Act 2011*, section 8, that does not extend beyond the workplace;

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(e) a public health risk within the meaning given by the *Public Health Act 2005*, section 11;

(f) development carried out under any of the following approvals or certificates, if the approval or certificate authorises the environmental nuisance—

(i) a development approval;

(ii) a PDA development approval under the *Economic Development Act 2012*;

(iii) an exemption certificate under the Planning Act;

(iv) a PDA exemption certificate under the *Economic Development Act 2012*;

(g) development carried out, or the use of premises, under a designation made under the Planning Act by the Minister who administers chapter 2, part 5 of that Act, to the extent the environmental nuisance, or an activity that causes the environmental nuisance, is regulated by a requirement of the designation;

(h) the use, for a fireworks display, of explosives within the meaning given by the *Explosives Act 1999*;

(i) smoking within the meaning given by the *Tobacco and Other Smoking Products Act 1998*;

(j) noise from a special event prescribed under a regulation for the *Major Sports Facilities Act 2001*, section 30A that complies with any conditions prescribed under the regulation, for the use of the facility where the event takes place, about noise levels for the event;

(k) an act done or omission made under an approved compliance management plan under the *Transport Infrastructure Act 1994*, section 477G.

Notes—

1 See the *Economic Development Act 2012*, section 54(7) in relation to by-laws made under that Act that are taken, for paragraphs (a) and (b), to be local laws.

2 See also the *Major Events Act 2014*, section 79 for an exemption from this Act for light and noise.

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Part 2 Exclusions from environmental harm and environmental nuisance

4 Non-domestic animal noise

Animal noise from a non-domestic animal.

5 Particular cooking odours

A cooking odour from cooking carried out on land on which a class 1, 2 or 3 building under the Building Code of Australia is constructed.

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Schedule 2 Original decisions

sections 519(1), 523 and 539A

Part 1 Original decisions for Land Court appeals

Division 1 Decisions under chapter 3

Section	Description of decision
41A(1)(b)	decision to refuse to allow draft terms of reference to proceed
49(1)	decision to refuse to allow an EIS to proceed or to allow a submitted EIS to proceed on conditions
51(2)(a)(iii)	decision about giving EIS notice
51(2)(b)(ii)	decision about way of publishing EIS notice
56A(2)(b)	decision to refuse to allow submitted EIS to proceed
68(1) and (2)	decision not to allow EIS to proceed
68(3)(a)	fixing of new notice period
68(3)(b)	fixing of new submission period

Division 3 Decisions under chapter 5

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a resource activity is not a properly made application

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Section	Description of decision
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a resource activity, or a proposed PRC plan
152(3)	decision to require another way of giving or publishing application notice
155(a)	fixing submission period for an application or amendment application for an environmental authority for a resource activity, other than a mining activity
159(2) and (3)	decision not to allow application or amendment application for an environmental authority or proposed PRC plan to proceed
159(5)(b)	fixing substituted way to give or publish application notice and fixing new submission period
171(2)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant
172(2)(a)	decision to approve site-specific application for an environmental authority for a resource activity that is a petroleum activity
172(2)(a)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the decision is not made under section 173(1)

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Section	Description of decision
219(1)	amendment decision for environmental authority or PRCP schedule for a resource activity
227AAB(2)	decision to give notice stating that an amendment application for an environmental authority for a resource activity is not a properly made amendment application
228(1)	assessment level decision for amendment application for an environmental authority or PRCP schedule for a resource activity, if the decision is that the proposed amendment is a major amendment
230(2)	decision that chapter 5, part 4 applies to amendment application for an environmental authority for a resource activity, other than a mining activity
234	fixing submission period for amendment application for an environmental authority or PRCP schedule for a resource activity
240(1)	refusal of amendment application for an environmental authority or PRCP schedule for a resource activity
240(1) and (3)	decision to approve amendment application for an environmental authority or PRCP schedule for a resource activity subject to other amendments to the conditions of the authority or PRCP schedule
247(1)(b)	refusal of amalgamation application for environmental authorities for resource activities
258(2)	decision to give surrender notice
258(3)(a)	fixing of period for making surrender application
266(1)(b)	refusal of surrender application for an environmental authority for a resource activity
271(2)	requirement to make residual risk payment
274(2)	decision to give surrender rehabilitation direction
275A	decision to amend PRCP schedule for partial surrender of environmental authority

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Section	Description of decision
282(1)	proposed action decision for an environmental authority for a resource activity
284C	refusal of suspension application for an environmental authority for a resource activity
285	decision to give PRCP schedule audit notice if section 285(2)(b) applies in relation to the giving of the notice
300	ERC decision for a resource activity
303	decision to require the holder of an environmental authority for a resource activity to apply for a new ERC decision
316G	decision to make a claim on or realise an EPA assurance or ask for a payment under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*
316M	decision not to change anniversary day for an environmental authority for a resource activity
316P(2)	decision to require holder of an environmental authority for a resource activity to make a site-specific application for a new environmental authority or an amendment application
316S	decision to give general rehabilitation direction

Division 4 Decisions under chapter 5A

Section	Description of decision
318YN(1)(b)	imposition of a condition on recognition of an accreditation program for an agricultural ERA
318YN(1)(c)	refusal of application to recognise an accreditation program for an agricultural ERA

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Section	Description of decision
318YU(2)	amendment, suspension or cancellation of recognition of an accreditation program for an agricultural ERA
318ZH	refusal of progressive certification
318ZJA	decision to amend PRCP schedule for certified area

Division 5 Decisions under chapter 7

Section	Description of decision
322(1)	decision to give audit notice for a resource activity
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a resource activity
326(1)	decision to conduct or commission environmental audit or prepare environmental report for a resource activity
326B(2)	decision to give investigation notice for a resource activity
326C(1)(d)	fixing of period for conducting or commissioning environmental investigation and giving site investigation report
326G(4)(b)	decision to refuse to accept environmental report about an environmental investigation for a resource activity
326I(2)	decision to require another environmental investigation and report for a resource activity
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a resource activity
357E	refusal of application for temporary emissions licence relating to an environmental authority for a resource activity

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Section	Description of decision
357E	granting of temporary emissions licence relating to an environmental authority for a resource activity on terms different from application
357J	amending, cancelling or suspending temporary emissions licence relating to an environmental authority for a resource activity
369J	decision to issue a cost recovery notice relating to a resource activity EEO
369J(2)	decision about an amount of costs or expenses claimed under a cost recovery notice relating to a resource activity EEO
369N	decision that a person is a related person of a company, in relation to the issuing of a resource activity EEO to the person
369P or 369Q	decision to issue a resource activity EEO

Division 6 Decisions under chapter 13, part 18

Section	Description of decision
697(1)(b)	decision to refuse conversion application for an environmental authority for a resource activity

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Part 2 Original decisions for court appeals

Division 2 Decisions under chapter 5

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a prescribed ERA is not a properly made application
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a prescribed ERA
171(2)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant
172(2)(a)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a prescribed ERA, if the decision is not made under section 173(1)
219(1)	amendment decision for an environmental authority for a prescribed ERA
227AAB(2)	decision to give notice stating that an amendment application for an environmental authority for a prescribed ERA is not a properly made amendment application

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Section	Description of decision
228(1)	assessment level decision for an amendment application for an environmental authority for a prescribed ERA, if the decision is that the proposed amendment is a major amendment
240(1)	refusal of amendment application for an environmental authority for a prescribed ERA
240(1) and (3)	decision to approve amendment application for an environmental authority for a prescribed ERA subject to other amendments to the conditions of the authority
247(1)(b)	refusal of amalgamation application for environmental authorities for prescribed ERAs
266(1)(b)	refusal of surrender application for an environmental authority for a prescribed ERA
282(1)	proposed action decision for an environmental authority for a prescribed ERA
284C	refusal of suspension application for an environmental authority for a prescribed ERA
310(1)	decision about amount and form of financial assurance for an environmental authority for a prescribed ERA
314(1)	refusal of application to amend the amount or form of financial assurance or discharge financial assurance, for an environmental authority for a prescribed ERA
315(1)	decision to require holder of an environmental authority for a prescribed ERA to change the amount of financial assurance
316G	decision to make claim on or realise EPA assurance for an environmental authority for a prescribed ERA
316M	decision not to change anniversary day for an environmental authority for a prescribed ERA

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Section	Description of decision
316P(2)	decision to require holder of an environmental authority for a prescribed ERA to make a site-specific application for a new environmental authority or an amendment application

Division 3 Decisions under chapter 5A

Section	Description of decision
318G	refusal of application for registration as a suitable operator
318N(1)	decision to cancel or suspend registration

Division 4 Decisions under chapter 7

Section	Description of decision
322(1)	decision to give audit notice for a prescribed ERA
322A(1)	decision to give audit notice for a recognised accreditation program for an agricultural ERA
323(2)	decision to give audit notice
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a prescribed ERA
326B(2)	decision to give investigation notice for prescribed ERA
326BA(2)	decision to give investigation notice
326C(1)(d)	fixing of period for conducting or commissioning environmental investigation and giving site investigation report

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Section	Description of decision
326G(4)(b)	decision to refuse to accept an environmental report about an environmental investigation for a prescribed ERA
326G(7)	extension of time for decision about environmental report
326I(2)	decision to require another environmental investigation and report for a prescribed ERA
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a prescribed ERA
332(1) or (2)	requirement to apply for the issue of a transitional environmental program
337(2)	extension of time for decision about transitional environmental program
339(1) or 344	decision on whether to approve, or to approve an amendment of, a transitional environmental program
339(2)	imposition of conditions on a transitional environmental program
344AG	amendment decision for a transitional environmental program
344C(1)	decision to make claim on, or realise, financial assurance
344E(1)(b)	cancelling approval for a transitional environmental program
353(3)(a)	removal of immunity from prosecution for a person under a refusal to approve an application for the issue of a transitional environmental program
357E	refusal of application for temporary emissions licence relating to an environmental authority for a prescribed ERA

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Section	Description of decision
357E	granting of temporary emissions licence relating to an environmental authority for a prescribed ERA on terms different from application
357J	amending, cancelling or suspending temporary emissions licence relating to an environmental authority for a prescribed ERA
362	issue of environmental enforcement order
369J	decision to issue a cost recovery notice relating to an environmental enforcement order other than a resource activity EEO
369J(2)	decision about an amount of costs or expenses claimed under a cost recovery notice relating to an environmental enforcement order other than a resource activity EEO
369N	decision that a person is a related person of a company, in relation to the issuing of an environmental enforcement order other than a resource activity EEO to the person
369P or 369Q	decision to issue an environmental enforcement order other than a resource activity EEO
377(1)	decision to include particulars of land in environmental management register or contaminated land register
379D	refusal to approve inclusion request
381(2)	decision to remove particulars of land in environmental management register or contaminated land register
381(2)	decision to amend particulars of land in environmental management register or contaminated land register
393	requirement for preparation or commission of draft site management plan
393	decision to prepare site management plan

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Section	Description of decision
397(2)	requirement for amendment of draft site management plan
397(2)	requirement for preparation or commission of another draft site management plan
398(2)	extension of time for approval of draft site management plan
404(1)(a)	decision to prepare amendment of site management plan
404(1)(b)	requirement to prepare draft amendment of site management plan

Division 5A Decisions under chapter 8

Section	Description of decision
440ZU	request for information or documents about an application for an exemption
440ZV	imposition of conditions on an exemption
440ZV	refusal of application for an exemption

Division 6 Decision under chapter 9

Section	Description of decision
451(1)	requirement for information relevant to the administration or enforcement of this Act, other than a requirement for information relevant to the making of a decision under section 369N

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Section	Description of decision
461	decision to seize a thing under section 461 unless a circumstance mentioned in section 463B(1)(a) or (b) applies
463D(4)(a)	decision to retain a seized thing

Division 6A Decision under chapter 10

Section	Description of decision
512(5)	decision to amend or suspend an enforceable undertaking

Division 7 Decisions under chapter 12

Section	Description of decision
571(1)(b)	decision to approve application for approval as auditor subject to conditions
571(1)(c)	decision to refuse application for approval as auditor
574G(1)	decision to amend, suspend or cancel approval as an auditor
574I(2)(b)	decision not to take action on complaint

Division 8 Decisions under chapter 13

Section	Description of decision
596(2)	decision to give reminder notice

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Section	Description of decision
596(2)	fixing of period for compliance with reminder notice
607(4)	decision about consolidating transitional authorities for same mining project
608(2)	decision to make environmental document requirement for transitional authority
616ZC(4) or 621(4)	decision to give registration certificate and development approval
623(2)	decision to give a notice that the risk of environmental harm from carrying out a chapter 4 activity under an environmental authority is no longer insignificant
697(1)(b)	decision to refuse conversion application for an environmental authority for a prescribed ERA

Part 3 Original decisions for internal review only

Section	Description of decision
73C(1)(a)	decision that an EIS would be required under this Act for an application for an environmental authority for a project
140 and 143(2)	requirement that the applicant provide an EIS for an application

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Schedule 3 Notifiable activities

schedule 4, dictionary, definition *notifiable activity*

1 Abrasive blasting—carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.

2 Aerial spraying—operating premises used for—

(a) filling and washing out tanks used for aerial spraying; or

(b) washing aircraft used for aerial spraying.

3 Asbestos manufacture or disposal—

(a) manufacturing asbestos products; or

(b) disposing of unbonded asbestos; or

(c) disposing of more than 5t of bonded asbestos.

4 Asphalt or bitumen manufacture—manufacturing asphalt or bitumen, other than at a single-use site used by a mobile asphalt plant.

5 Battery manufacture or recycling—assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).

6 Chemical manufacture or formulation—manufacturing, blending, mixing or formulating chemicals if—

(a) the chemicals are designated dangerous goods under the dangerous goods code; and

(b) the facility used to manufacture, blend, mix or formulate the chemicals has a design production capacity of more than 1t per week.

7 Chemical storage (other than petroleum products or oil under item 29)—storing more than 10t of chemicals (other than compressed or liquefied gases) that are dangerous goods under the dangerous goods code.

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8 Coal fired power station—operating a coal fired power station.

9 Coal gas works—operating a coal gas works.

11 Drum reconditioning or recycling—reconditioning or recycling of metal or plastic drums including storage drums.

12 Dry cleaning—operating a dry cleaning business where—

(a) solvents are stored in underground tanks; or

(b) more than 500L of halogenated hydrocarbon are stored.

13 Electrical transformers—manufacturing, repairing or disposing of electrical transformers.

14 Engine reconditioning works—carrying out engine reconditioning work at a place where more than 500L of any of the following are stored—

(a) halogenated and non-halogenated hydrocarbon solvents;

(b) dangerous goods in class 6.1 under the dangerous goods code;

(c) industrial degreasing solutions.

15 Explosives production or storage—operating an explosives factory under the *Explosives Act 1999*.

16 Fertiliser manufacture—manufacturing agriculture fertiliser (other than the blending, formulation or mixing of fertiliser).

17 Foundry operations—commercial production of metal products by injecting or pouring molten metal into moulds and associated activities in works having a design capacity of more than 10t per year.

18 Gun, pistol or rifle range—operating a gun, pistol or rifle range.

19 Herbicide or pesticide manufacture—commercially manufacturing, blending, mixing or formulating herbicides or pesticides.

20 Landfill—disposing of waste (excluding inert construction and demolition waste).

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21 Lime burner—manufacturing cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.

22 Livestock dip or spray race operations—operating a livestock dip or spray race facility.

23 Metal treatment or coating—treating or coating metal, including, for example, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and spray painting using more than 5L of paint per week (other than spray painting within a fully enclosed booth).

24 Mine wastes—

(a) storing hazardous mine or exploration wastes, including, for example, tailings dams, overburden or waste rock dumps containing hazardous contaminants; or

(b) exploring for, or mining or processing, minerals in a way that exposes faces, or releases groundwater, containing hazardous contaminants.

25 Mineral processing—chemically or physically extracting or processing metalliferous ores.

26 Paint manufacture or formulation—manufacturing or formulating paint where the design capacity of the plant used to manufacture or formulate the paint is more than 10t per year.

27 Pest control—commercially operating premises, other than premises operated for farming crops or stock, where—

(a) more than 200L of pesticide are stored; and

(b) filling or washing of tanks used in pest control operations occurs.

28 Petroleum or petrochemical industries including—

(a) operating a petrol depot, terminal or refinery; or

(b) operating a facility for the recovery, reprocessing or recycling of petroleum-based materials.

29 Petroleum product or oil storage—storing petroleum products or oil—

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(a) in underground tanks with more than 200L capacity; or

(b) in above ground tanks with—

(i) for petroleum products or oil in class 3 in packaging groups 1 and 2 of the dangerous goods code—more than 2,500L capacity; or

(ii) for petroleum products or oil in class 3 in packaging groups 3 of the dangerous goods code—more than 5,000L capacity; or

(iii) for petroleum products that are combustible liquids in class C1 or C2 in Australian Standard AS 1940, 'The storage and handling of flammable and combustible liquids' published by Standards Australia—more than 25,000L capacity.

30 Pharmaceutical manufacture—commercially manufacturing, blending, mixing or formulating pharmaceutics.

31 Printing—commercial printing using—

(a) type metal alloys; or

(b) printing inks or pigments or etching solutions containing metal; or

(c) cast lead drum plates; or

(d) a linotype machine with a gas-fired lead melting pot attached; or

(e) more than 500L of halogenated and non-halogenated hydrocarbon solvents.

32 Railway yards—operating a railway yard including goods-handling yards, workshops and maintenance areas.

33 Scrap yards—operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.

34 Service stations—operating a commercial service station.

35 Smelting or refining—fusing or melting metalliferous metal or refining the metal.

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36 Tannery, fellmongery or hide curing—operating a tannery or fellmongery or hide curing works or commercially finishing leather.

37 Waste storage, treatment or disposal—storing, treating, reprocessing or disposing of waste prescribed under a regulation to be regulated waste for this item (other than at the place it is generated), including operating a nightsoil disposal site or sewage treatment plant where the site or plant has a design capacity that is more than the equivalent of 50,000 persons having sludge drying beds or on-site disposal facilities.

38 Wood treatment and preservation—treating timber for its preservation using chemicals, including, for example, arsenic, borax, chromium, copper or creosote.

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Schedule 4 Dictionary

section 7

accreditation program, for an agricultural ERA, for chapter 5A, part 5A, see section 318YB.

accredited, under a recognised accreditation program for an agricultural ERA, for chapter 5A, part 5A, see section 318YA.

administering authority means—

(a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government; or

(b) for another matter—the chief executive.

administering executive means—

(a) for a matter, the administration and enforcement of which has been devolved to a local government under section 514—the local government's chief executive officer; or

(b) for another matter—the chief executive.

adviser, for chapter 4A, part 4, see section 83.

affected building, for chapter 8, part 3B, see section 440K.

affected person, for a project, see section 38.

agricultural chemical product means an agricultural chemical product under the Agvet Code of Queensland as applying under the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*.

agricultural ERA see section 79.

agricultural ERA standard see section 81(1).

aircraft movement means a landing, departure or ground movement of aircraft, whether on or from land, water, a building or a vehicle.

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amalgamated environmental authority, for chapter 5, part 8, see section 243.

amalgamated corporate authority, for chapter 5, part 8, see section 243.

amalgamated local government authority, for chapter 5, part 8, see section 243.

amalgamated project authority, for chapter 5, part 8, see section 243.

amalgamation application, for chapter 5, part 8, see section 243.

amendment application, for an environmental authority or PRCP schedule, see section 224.

amendment decision—

(a) for chapter 5, part 6—see section 219(2); or

(b) for chapter 7, part 3, division 3, subdivision 3—see section 344AG(2).

anniversary day, for an environmental authority—

1 Generally, the *anniversary day* for an environmental authority means—

(a) for an environmental authority for a resource activity—each anniversary of the day the relevant tenure is granted; or

(b) for an environmental authority for a prescribed ERA—each anniversary of the day the environmental authority takes effect.

Note—

See, however, sections 602, 677, 680, 682 and 690.

2 Also—

(a) if the anniversary day for an environmental authority is changed under chapter 5, part 15, division 3, the *anniversary day* for the authority is the day as changed; or

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(b) if the administering authority decides to approve an amalgamation application for an amalgamated local government authority or amalgamated project authority, the *anniversary day* for the amalgamated environmental authority is the day stated in section 247A.

3 The anniversary day for an environmental authority does not change merely because the authority is amended, de-amalgamated or transferred.

annual notice see section 316I(2).

applicable event, for chapter 7, part 4A, see section 357A.

applicant, for chapter 5, parts 2 to 5, means the applicant for an environmental authority.

application, for chapter 5, parts 2 to 5, means an application for an environmental authority.

application documents, for an application for an environmental authority, a proposed PRC plan or an amendment application for an environmental authority or PRCP schedule, means each of the following—

(a) the properly made application for the environmental authority, the proposed PRC plan or the properly made amendment application for the environmental authority or PRCP schedule;

(b) if an EIS is submitted under chapter 3, part 1 for the relevant activity—

(i) the submitted EIS; and

(ii) any EIS assessment report for the submitted EIS;

(c) if the application, proposed PRC plan or amendment application relates to a coordinated project—

(i) any EIS or IAR prepared for the project under the State Development Act, part 4; and

(ii) any report under the State Development Act, section 34D evaluating an EIS for the project;

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(d) for a site-specific application for a mining activity relating to a mining lease—the proposed PRC plan for the application.

application notice, for chapter 5, part 4, see section 152(1).

application stage, for chapter 5, see section 112.

appropriately qualified—

1 *Appropriately qualified*, for an entity to whom a power under this Act may be delegated or subdelegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

2 If the power may be delegated or subdelegated by a local government, the following are *appropriately qualified* entities for the delegation or subdelegation—

(a) the local government's mayor;

(b) a standing committee or a chairperson of a standing committee of the local government;

(c) the local government's chief executive officer;

(d) an employee of the local government, having the qualifications, experience or standing appropriate to exercise the power.

Example of standing for paragraph (d)—

the employee's classification level in the local government

approved form means a form approved by the administering executive.

area of cultural heritage significance includes an area or place of indigenous cultural significance, or aesthetic, architectural, historical, scientific, social or technological significance, to the present generation or past or future generations.

assessment level decision, for chapter 5, part 7, see section 228(3).

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assessment manager, for a development application, means the person who is the assessment manager under the Planning Act for the application.

assessment process means, for assessing and deciding an application, and assessing and approving a proposed PRC plan, for an environmental authority under chapter 5, the process under chapter 5, parts 2 to 5.

associated entity, for chapter 7, part 5, division 4, see section 369M.

at, for chapter 8, part 3B, see section 440K.

audible noise, for chapter 8, part 3B, see section 440L.

audit notice see sections 322(1), 322A(1) and 323(2).

audit period, for a PRCP schedule, see section 285(3)(b).

audit report, for a PRCP schedule, see section 285(6)(a).

auditor see section 567.

auditor's certification see section 389.

authorised person means a person holding office as an authorised person under an appointment under this Act by the chief executive or chief executive officer of a local government.

background level, for chapter 8, part 3B, see section 440K.

best practice environmental management, for an activity, see section 21.

bilateral agreement means a bilateral agreement as defined under the Commonwealth Environment Act to which the State is a party.

boat means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

body-worn camera means a device—

(a) worn on clothing or otherwise secured on a person; and

(b) designed to be used to—

(i) record images; or

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(ii) record images and sounds.

building includes—

(a) any kind of structure; and

(b) part of a building.

building work, for chapter 8, part 3B, see section 440K.

business days does not include a business day that occurs during the period starting on 20 December in a year and ending on 5 January in the following year.

busway see the *Transport Infrastructure Act 1994*, schedule 6.

carries out, an agricultural ERA, see section 80.

certified area, for a relevant tenure for a resource project, see section 318Z(3).

change application means a change application under the Planning Act.

coal seam gas means petroleum, in any state, occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

code of practice means a code of practice made by the Minister under section 551(1).

Commonwealth Environment Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

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

condition conversion, for chapter 5, part 7, see section 223.

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.

consultation period, for chapter 5A, part 1, see section 317.

consumer price index means the all groups consumer price index for Brisbane published by the Australian Statistician.

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contaminant see section 11.

contaminated land means land contaminated by a hazardous contaminant.

contaminated land investigation document, for relevant land, for chapter 7, part 8, division 3, see section 387.

contaminated land register means the register kept by the administering authority under section 540A(1)(d)(ii).

contamination see section 10.

contamination incident see section 360.

continuation, for an original offence under a program notice, includes the happening again of the offence because of a relevant event of the same type stated in the notice.

conviction includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

coordinated project means a project declared under the State Development Act, section 26, to be a coordinated project.

Coordinator-General's conditions, for chapter 5, see section 205(2).

Coordinator-General's report, for a coordinated project, means the Coordinator-General's report under the State Development Act, section 34D or 34L evaluating the EIS or IAR for the project.

corresponding law means under a law of the Commonwealth or another State that provides for the same or similar matters as this Act.

cost recovery notice see section 369J.

Court means the Planning and Environment Court.

criminal history, for a person, for chapter 9, part 5A, see section 484B.

CSG activity means a petroleum activity involving exploring for or producing coal seam gas.

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CSG evaporation dam means an impoundment, enclosure or structure designed to be used to hold CSG water for evaporation.

CSG water means underground water brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas.

dangerous goods code means the 'Australian Code for the Transport of Dangerous Goods by Road and Rail' prepared by the Office of Federal Road Safety and published by the Commonwealth.

de-amalgamation application, for chapter 5, part 8, see section 243.

decision-making period, for a development application, means the period allowed under the development assessment rules under the Planning Act for the assessment manager to decide the application.

decision stage, for chapter 5, see section 112.

deposits, for chapter 8, part 3C, see section 440ZE.

designated precinct, in a strategic environmental area, see the *Regional Planning Interests Regulation 2014*, schedule 2, section 15(3).

development see the Planning Act, schedule 2.

development application means an application for a development approval.

development approval means development approval as defined under the Planning Act.

development condition—

1 *Development condition*, of a development approval, means a condition of the approval imposed by, or because of a requirement of—

(a) the administering authority as the assessment manager or a referral agency for the application for the approval; or

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(b) the planning chief executive as the assessment manager or a referral agency for the application for the approval, if the planning chief executive nominates the administering authority as the enforcement authority under the Planning Act for the development to which the condition relates.

2 The term includes a reference to a condition referred to in the State Development Act, section 39(1).

3 To remove any doubt, it is declared that if a condition mentioned in paragraph 1 was imposed on a development approval because the approval related to an environmentally relevant activity, the condition does not stop being a development condition only because the activity stops being an environmentally relevant activity.

development permit means a development permit as defined under the Planning Act.

disqualifying event means—

(a) a conviction for an environmental offence; or

(b) the cancellation or suspension of—

(i) an environmental authority; or

(ii) a registration of a suitable operator under chapter 5A, part 4; or

(iii) an authority, instrument, licence or permit, however called, similar to an environmental authority or a registration of a suitable operator under a corresponding law; or

(c) an event prescribed under a regulation to be a disqualifying event.

dissatisfied person see section 520.

draft environmental authority, for an application for an environmental authority, means the draft environmental authority prepared by the administering authority under section 181(2)(b)(i).

draft terms of reference, for an EIS, see section 39.

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duty to restore the environment see section 319C.

EA application, for chapter 3, part 3, see section 73(2).

earth, for chapter 8, part 3C, see section 440ZD.

ecologically sustainable development see section 3.

educational institution, for chapter 8, part 3B, see section 440K.

EIS means an environmental impact statement.

EIS amendment notice see section 66(3).

EIS assessment report see section 57(2).

EIS notice see section 51(2)(a).

EIS process, for an EIS, means the process under chapter 3, part 1.

EIS requirement, for an application, means that an EIS has been required under this Act for the application.

eligible ERA, for chapter 5, see section 112.

eligibility criteria, for an environmentally relevant activity, see section 112.

emergency see section 466B.

emergency direction see section 467(1)(a).

emergency powers see section 467(6).

emergency situation, for chapter 5, part 14A, see section 316GA.

enforceable undertaking see section 507(1).

enforcement ground, for an environmental enforcement order, for chapter 7, part 5, see section 359.

engaging in conduct includes failing to engage in conduct.

enhanced petroleum recovery see the GHG storage Act, schedule 2.

enter, a place, includes re-enter the place.

entry order, for chapter 12, part 4, see section 575(2).

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environment see section 8.

environmental audit, for chapter 7, part 2, see sections 322(1)(a), 322A(1)(a) and 323(2)(a).

environmental authority means—

(a) generally—

(i) an environmental authority issued under section 195 that approves an environmentally relevant activity applied for in an application; or

(ii) if a replacement environmental authority is issued for an environmental authority—the replacement environmental authority; or

(b) for chapter 5, part 14, division 3, see section 316A.

environmental enforcement order see section 362.

environmental evaluation means an environmental audit or investigation.

environmental harm see section 14.

environmental investigation see section 326B(2)(a) or 326BA(2).

environmentally relevant activity see section 18.

environmental management register means the register kept by the administering authority under section 540A(1)(c)(i).

environmental nuisance see section 15.

environmental offence means—

(a) an offence against any of the following provisions—

- section 260
- section 295(3)
- section 319(2)
- section 319C(3)
- chapter 7, part 2
- section 357(5)
- section 357I

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- section 369A
- chapter 8; or

(b) an offence against a corresponding law, if the act or omission that constitutes the offence would, if it happens in the State, be an offence against a provision mentioned in paragraph (a).

environmental offset see the *Environmental Offsets Act 2014*, schedule 2.

environmental offset condition, for chapter 5, part 5, division 6, see section 207(1)(c).

environmental protection policy means an environmental protection policy approved under chapter 2.

environmental record, of a person, means the person'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.

environmental report means a report on an environmental evaluation.

environmental requirement means—

(a) an environmental authority; or

(b) a transitional environmental program; or

(c) an environmental enforcement order issued under section 362(2)(a); or

(d) a site management plan; or

(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*.

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environmental standard means—

(a) an environmental standard (however called) set out, or otherwise provided for, in a regulation under this Act; or

(b) an outcome or objective that is directed at protecting or enhancing environmental values set out in an environmental protection policy.

environmental value see section 9.

EPA assurance see section 316A.

EPA Minister means the Minister for the time being administering this Act.

ERA project see section 112.

ERA standard, for chapter 5A, part 1, see section 317.

ERC decision see section 296.

ERC period see section 296.

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

executive officer, of a corporation, means—

(a) if the corporation is the Commonwealth or a State—a chief executive of a department of government or a person who is concerned with, or takes part in, the management of a department of government, whatever the person's position is called; or

(b) if the corporation is a local government—

(i) the chief executive officer of the local government; or

(ii) a person who is concerned with, or takes part in, the local government's management, whatever the person's position is called; or

(c) if paragraphs (a) and (b) do not apply—a person who is—

(i) a member of the governing body of the corporation; or

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(ii) concerned with, or takes part in, the corporation's management;

whatever the person's position is called and whether or not the person is a director of the corporation.

existing environmental authority, for chapter 5, part 8, see section 243.

existing ERA, in relation to an emergency situation, for chapter 5, part 14A, see section 316GA.

existing holder, of an environmental authority, for chapter 5, part 9, see section 252.

exploration permit means—

(a) an exploration permit under the Mineral Resources Act; or

(b) a former exploration permit under the Mineral Resources Act continued in effect under section 148 of that Act.

fee includes tax.

final rehabilitation report means a final rehabilitation report prepared under chapter 5, part 10, division 3.

final terms of reference, for chapter 3, part 1, see section 39.

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).

financial interest, for chapter 7, part 5, division 4, see section 369M.

general environmental duty see section 319.

general rehabilitation direction see section 316S(2).

Geothermal Act means the *Geothermal Energy Act 2010*.

geothermal activity see section 108.

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geothermal tenure means any of the following under the Geothermal Act—

(a) a geothermal permit;

(b) a geothermal lease;

(c) another approval under the Geothermal Act which grants rights over land.

GHG means greenhouse gas.

GHG permit means a GHG permit under the GHG storage Act.

GHG storage Act means the *Greenhouse Gas Storage Act 2009*.

GHG storage activity see section 109.

GHG storage tenure means any of the following under the GHG storage Act—

(a) a GHG exploration permit (also called a GHG permit);

(b) a GHG injection and storage lease (also called a GHG lease);

(c) a GHG injection and storage data acquisition authority (also called a GHG data acquisition authority);

(d) another approval under the GHG storage Act which grants rights over land.

GHG stream see the GHG storage Act, section 12.

GHG well means a well that is, or has been, a GHG well under the GHG storage Act.

give advice, for chapter 4A, part 4, see section 83.

Great Artesian Basin see the GHG storage Act, schedule 2.

Great Barrier Reef catchment see section 75(1).

Great Barrier Reef catchment waters see section 112.

Great Barrier Reef water quality offset condition see section 87(3).

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Great Barrier Reef World Heritage Area means the area listed as the Great Barrier Reef on the World Heritage List kept under the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as amended and in force for Australia from time to time.

hazardous contaminant means a contaminant, other than an item of explosive ordnance, that, if improperly treated, stored, disposed of or otherwise managed, is likely to cause serious or material environmental harm because of—

(a) its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, explosiveness, radioactivity or flammability; or

(b) its physical, chemical or infectious characteristics.

high risk company, for chapter 7, part 5, division 4, see section 369M.

holder—

1 The *holder* of a transitional environmental program is—

(a) the person or public authority to whom the transitional environmental program was issued; or

(b) if the transitional environmental program relates to an environmental authority—the holder of the environmental authority.

2 The *holder* of an environmental authority for a prescribed ERA is—

(a) the person who made an application for the authority; or

(b) if a transfer application for the authority has been approved under chapter 5, part 9—the person to whom the transferred environmental authority has been issued.

3 The *holder* of an environmental authority or PRC plan for a resource activity is the holder of the relevant tenure.

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4 The *holder* of a resource tenure is the holder of the tenure under resource legislation.

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.

5 The *holder* of a temporary emissions licence is the holder of the environmental authority to which the temporary emissions licence relates.

6 However, if a holder of an environmental authority under paragraph 1 or 2 dies, that person's personal representative becomes the holder.

holding company see the Corporations Act, section 9.

hovercraft means a vehicle designed to be supported on cushion of air.

IAR means an IAR under the State Development Act.

identity card, of an authorised person, means the identity card issued to the authorised person under section 448.

inclusion request see section 379B(1).

indoor venue, for chapter 8, part 3B, see section 440K.

ineligible ERA see section 112.

information notice, about a decision, means a written notice stating—

(a) the decision; and

(b) if the decision is a decision other than to impose a condition on an environmental authority, the reasons for the decision; and

(c) the review or appeal details.

information request, for chapter 5, see section 140(1).

information request period, for chapter 5, see section 144.

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information response period, for chapter 5, see section 141(1).

information stage, for chapter 5, see section 112.

integrated environmental management system, for an environmentally relevant activity or activities, means a system for the management of the environmental impacts of the carrying out of the activity or activities.

interest, for chapter 7, part 5, division 4, see section 369M.

interested person, for chapter 3, part 1, see section 39.

Intergovernmental Agreement on the Environment means the agreement made on 1 May 1992 between the Commonwealth, the States, the Australian Capital Territory, the Northern Territory and the Australian Local Government Association.

Note—

A copy of the Intergovernmental Agreement on the Environment is in the *National Environment Protection Council (Queensland) Act 1994*, schedule.

investigation notice see section 326B(2) or 326BA(2).

joint applicants, for chapter 5, see section 125(1)(f).

$L_{A90,\ T}$, for chapter 8, part 3B, see section 440K.

land includes—

(a) the airspace above land; and

(b) land that is, or is at any time, covered by waters; and

(c) waters.

licensed premises, for chapter 8, part 3B, see section 440K.

light rail see the *Transport Infrastructure Act 1994*, schedule 6.

major amendment, for an environmental authority or PRCP schedule, see section 223.

management milestone, for a non-use management area, see section 112.

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material change of use, of premises, see the Planning Act, schedule 2.

material environmental harm see section 16.

matter of national environmental significance means a matter described in the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), chapter 2, part 3, division 1.

matter of State environmental significance means a matter prescribed under the *Environmental Offsets Act 2014*, section 10(1)(b) to be a prescribed environmental matter.

mineral development licence means—

(a) a mineral development licence under the Mineral Resources Act; or

(b) a former mineral development licence under the Mineral Resources Act continued in effect under section 215 of that Act.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining activity see section 110.

mining claim means a mining claim under the Mineral Resources Act.

mining lease means a mining lease under the Mineral Resources Act.

mining tenure means—

(a) a prospecting permit; or

(b) a mining claim; or

(c) an exploration permit; or

(d) a mineral development licence; or

(e) a mining lease; or

(f) another approval under the Mineral Resources Act which grants rights over land.

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minor amendment, for an environmental authority or PRCP schedule, see section 223.

minor amendment (PRCP threshold), for a PRCP schedule, see section 223.

minor amendment (threshold), for an environmental authority, see section 223.

minor change, for an application for an environmental authority, see section 131.

minor ERC change, for an application for an ERC decision for a resource activity, for chapter 5, part 14, division 1, subdivision 3, see section 299A.

mobile and temporary environmentally relevant activity means a prescribed ERA, other than an activity that is dredging material, extracting rock or other material, or the incinerating of waste—

(a) carried out at various locations using transportable plant or equipment, including a vehicle; and

(b) that does not result in the building of any permanent structures or any physical change of the landform at the locations (other than minor alterations solely necessary for access and setup, including, for example, access ways, footings and temporary storage areas); and

(c) carried out at any one of the locations—

(i) for less than 28 days in a calendar year; or

(ii) for 28 or more days in a calendar year only if the activity is necessarily associated with, and is exclusively used in, the construction or demolition phase of a project.

MRA Minister means the Minister for the time being administering the Mineral Resources Act.

national environmental protection measure means a national environmental protection measure made under the national scheme laws.

national scheme laws means—

(a) the *National Environment Protection Council Act 1994* (Cwlth); and

(b) the *National Environment Protection Council (Queensland) Act 1994*.

natural disaster does not include an event that can be prevented by human action.

natural environment—

(a) means living and non-living things that occur naturally at 1 or more places on Earth; and

(b) does not include amenity or aesthetic, cultural, economic or social conditions.

new day, for the anniversary day for an environmental authority, see section 316L(1).

new ERA, in relation to an emergency situation, for chapter 5, part 14A, see section 316GA.

NNTT means the National Native Title Tribunal established under the Commonwealth Native Title Act, part 6.

noise see section 12.

noise standard, for chapter 8, part 3B, see section 440K.

nominated section, for chapter 8, part 3B, division 2, see section 440O(2)(b).

non-use management area see section 112.

notifiable activity means an activity in schedule 3.

notification stage, for chapter 5, see section 112.

objection notice, for chapter 5, part 5, see section 182(2).

objections decision, for chapter 5, part 5, division 3, see section 185(1).

objections decision hearing, for chapter 5, part 5, division 3, see section 188(1).

objector, for an application for an environmental authority or PRCP schedule, means an entity—

(a) that gave an objection notice under section 182(2); and

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(b) whose objection notice is still current.

Note—

For when an objection notice ceases to have effect, see section 182(4).

obstruct includes hinder, delay, resist and attempt to obstruct.

occupier, of a place, includes the person apparently in charge of the place.

open-air event, for chapter 8, part 3B, see section 440K.

operational land, for chapter 3, part 1, see section 39.

original decision see section 519.

original offence, for a program notice, see section 351.

overlapping area, for chapter 5, part 10, see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 104.

overlapping prescribed resource activity, for chapter 5, part 10, see section 268A(1)(b).

owner, of an accreditation program, see section 318YA.

owner—

1 The *owner* of land is—

(a) for freehold land—the person recorded in the freehold land register as the person entitled to the fee simple interest in the land; or

(b) for land held under a lease, licence or permit under an Act—the person who holds the lease, licence or permit; or

(c) for trust land under the *Land Act 1994*—the trustees of the land; or

(d) for Aboriginal land under the *Aboriginal Land Act 1991*—the persons to whom the land has been transferred or granted; or

(e) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*—the persons to whom the land has been transferred or granted; or

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(f) for land for which there is a native title holder under the *Native Title Act 1993* (Cwlth)—each registered native title party in relation to the land.

2 Also, a mortgagee of land is the *owner* of the land if—

(a) the mortgagee is acting as a mortgagee in possession of the land and has the exclusive management and control of the land; or

(b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.

owner-builder permit means an owner-builder permit under the *Queensland Building and Construction Commission Act 1991*.

ozone depleting substance means—

(a) any chlorofluorocarbon or halon; or

(b) another substance prescribed by regulation to be an ozone depleting substance.

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

parent corporation, of another corporation, means a corporation of which the other corporation is a subsidiary under the Corporations Act.

particles includes dust and ash.

peak particle velocity, for chapter 8, part 3B, see section 440K.

person, for chapter 3, part 1, see section 39.

person in control, of a vehicle, includes—

(a) the driver of the vehicle; and

(b) the person in command of the vehicle; and

(c) the person who appears to be in control or command of the vehicle.

petroleum activity see section 111.

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petroleum lease means a petroleum lease under the P&G Act.

petroleum tenure means—

(a) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*; or

(b) a petroleum authority granted under the P&G Act; or

(c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*; or

(d) another approval under the *Petroleum Act 1923*, the P&G Act or the *Petroleum (Submerged Lands) Act 1982* which grants rights over land.

place, in relation to a contamination incident, see section 358.

Planning Act means the *Planning Act 2016*.

planning chief executive means the chief executive of the department in which the Planning Act is administered.

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.

post-surrender management report, for land the subject of a surrender application, means a post-surrender management report prepared under chapter 5, part 10, division 3 for the land.

power boat, for chapter 8, part 3B, see section 440K.

PRC plan see section 112.

PRCP schedule see section 112.

premises includes a building and the land on which a building is situated.

prescribed condition see section 21A.

prescribed ERA see section 106.

prescribed ERA project see section 112.

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prescribed person, for a contamination incident, see section 361.

prescribed resource activity, for chapter 5, part 10, means a resource activity carried out under one of the following—

(a) an authority to prospect under the P&G Act, if the intention of the holder is to explore and test for coal seam gas;

(b) an exploration permit for coal;

(c) a mineral development licence for coal;

(d) a mining lease for coal;

(e) a petroleum lease authorising the production of coal seam gas.

prescribed responsible person, for chapter 7—

1 Each of the following persons is a *prescribed responsible person* for land—

(a) if a person released a hazardous contaminant contaminating the land—the person;

(b) the relevant local government;

(c) if subparagraph (a) or (b) does not apply—the owner of the land in relation to whom either of the following applies—

(i) when the owner acquired the land particulars of the land were recorded in the environmental management register or the contaminated land register;

(ii) the land became contaminated after the owner acquired the land.

1A Despite paragraph 1(a), the person is a prescribed responsible person for the land only if—

(a) the person is known; and

(b) the administering authority can, after making reasonable efforts, locate the person.

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2 Despite paragraph 1(b), a local government is a prescribed responsible person for land only if—

(a) the administering authority believes—

(i) the land became contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and

(ii) in giving the approval, the local government did not comply with the requirements under any Act in relation to the approval; and

(iii) the local government ought to have known that giving the approval would result in the land becoming contaminated; or

(b) both of the following apply—

(i) the local government gave approval for the use of, or an activity on, the land inconsistent with the particulars recorded for the land in the environmental management register or the contaminated land register;

(ii) the use or activity has caused environmental harm.

3 A mortgagee who is the owner of land is not an owner for paragraph 1(c).

prescribed standard see section 579C.

prescribed water contaminant, for chapter 8, part 3C, see section 440ZD.

program notice see section 350.

progressive certification see section 318Z(2).

progressive certification application, for chapter 5A, part 6, see section 318ZC.

properly made amendment application, for chapter 5, part 7, see section 227AAA.

properly made application, for chapter 5, see section 127.

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***properly made submission*—**

(a) for chapter 3—see section 55(2); or

(b) for chapter 5—see section 161(2).

Note—

See also sections 115(4) (Development application taken to be application for environmental authority in particular circumstances) and 150(3) (Notification stage does not apply to particular applications).

***proponent*—**

(a) for a project, means the person who proposes the project; or

(b) for chapter 3, part 1, see section 39.

***proposed action*—**

(a) for chapter 5, part 11—see section 280(1)(a); or

(b) for chapter 5A, part 4, division 2—see section 318L(1)(a); or

(c) for chapter 5A, part 5A, division 6—see section 318YR(1);

(d) for chapter 12, part 3A, division 4—see section 574E(2)(a).

***proposed action decision*—**

(a) for chapter 5, part 11—see section 282(2); or

(b) for chapter 5A, part 4, division 2—see section 318N(2).

***proposed amendment*—**

(a) for an environmental authority or PRCP schedule, for chapter 5, part 6—see section 217(1)(a); or

(b) for a transitional environmental program, for chapter 7, part 3, division 3, subdivision 3—see section 344AE(1)(a).

***proposed amendment notice*—**

(a) for chapter 5, part 6—see section 217(1); or

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(b) for chapter 7, part 3, division 3, subdivision 3—see section 344AE(1).

proposed PRC plan, for an application, means a PRC plan proposed for land the subject of a mining lease that—

(a) complies with chapter 5, part 2, division 3; and

(b) either—

(i) accompanies the application; or

(ii) is submitted for the application after the application is made.

prospecting permit means—

(a) a prospecting permit under the Mineral Resources Act; or

(b) a former prospecting permit under the Mineral Resources Act continued in effect under section 30 of that Act.

protocol see section 579B.

public authority includes the following—

(a) an entity established under an Act;

(b) a government owned corporation;

(c) Queensland Rail Limited ACN 132 181 090.

public notice requirements, for chapter 5, see section 158(1).

public passenger vehicle see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

public place means any place the public is entitled to use or is open to, or used by, the public (whether or not on payment of an admission fee).

public road means a road that is open to the public, whether or not on payment of money.

rail transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

railway means a private or public railway or railway facility.

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Examples of a railway facility—

railway bridge, railway communications system, railway marshalling station and yard, railway track, works built for a railway

receiving environment, in relation to an activity that causes or may cause environmental harm, means the part of the environment to which the harm is, or may be, caused.

recipient means—

(a) for an environmental evaluation—the person on whom the requirement for the evaluation is made; or

(b) for an environmental enforcement order—the person to whom the order is issued; or

(c) for a notice to conduct or commission a site investigation—the person to whom the notice is given; or

(d) for a notice to prepare or commission a site investigation report—the person to whom the notice is given.

recognised accreditation program, for an agricultural ERA, see section 318YA.

recognised entity means any of the following—

(a) the administering authority;

(b) the department in which the *Fisheries Act 1994* or *Water Act 2000* is administered;

(c) a local government;

(d) a public authority;

(e) an agency, however called, established under a corresponding law with similar functions to the functions of the chief executive;

(f) a ministerial council established by the Council of Australian Governments;

(g) the Commonwealth Scientific and Industrial Research Organisation;

(h) a cooperative research centre completely or partly funded by the Commonwealth;

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(i) an Australian university.

referral agency, for a development application, means a referral agency for the application under the Planning Act.

referral agency's response period, for a development application, means the period stated in the development assessment rules for complying with the Planning Act, section 56(4) for the application.

register means a register kept under section 540 or 540A.

registered suitable operator means a person whose name and address is entered in the register of suitable operators under chapter 5A, part 4.

registrar of titles means the registrar of titles or another person responsible for keeping a register in relation to dealings in land.

registration Act see the *State Penalties Enforcement Act 1999*, schedule 2.

regulatory function, for chapter 12, part 3, see section 564.

regulatory requirement means a requirement under an environmental protection policy or a regulation for—

(a) the administering authority to—

(i) approve or refuse, or follow stated procedures for evaluating, any of the following applications—

(A) an application for an environmental authority and any proposed PRCP schedule for the application;

(B) an amendment application or surrender application for an environmental authority or an amendment application for a PRCP schedule;

(C) a progressive certification application under chapter 5A, part 6;

(D) an application for the issue of a transitional environmental program; or

(ii) impose or amend a condition of an environmental authority, PRCP schedule or transitional environmental program; or

(b) the chief executive to decide whether to—

(i) allow a draft terms of reference to proceed under section 41A; or

(ii) allow a submitted EIS to proceed under section 49 or 56A; or

(c) the Land Court to make an objections decision under section 191.

rehabilitation auditor, for chapter 5, part 12, division 2, means a person who meets the requirements mentioned in section 288(1).

rehabilitation commissioner means the rehabilitation commissioner appointed under section 444A.

rehabilitation milestone see section 112.

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

related person, for chapter 7, part 5, see section 369N.

release, of a contaminant into the environment, includes—

(a) to deposit, discharge, emit or disturb the contaminant; and

(b) to cause or allow the contaminant to be deposited, discharged, emitted or disturbed; and

(c) to fail to prevent the contaminant from being deposited, discharged, emitted or disturbed; and

(d) to allow the contaminant to escape; and

(e) to fail to prevent the contaminant from escaping.

relevant activity—

(a) for an environmental authority, means the environmentally relevant activity the subject of the authority; or

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(b) for an application for an environmental authority—means the environmentally relevant activity the subject of the application; or

(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 4, see section 369M.

relevant entity for chapter 11, part 4, see section 541(1).

relevant ERA, for chapter 5, part 14A, see section 316GA.

relevant event, for a program notice, see section 350(1).

relevant existing authority, for chapter 5A, part 1, see section 317.

relevant industrial chemical see the *Industrial Chemicals Environmental Management (Register) Act 2021* (Cwlth), section 7.

relevant land, for chapter 7, part 8, see section 370.

relevant land register, for chapter 7, part 8, see section 370.

relevant local government, for land, means the local government for the local government area where the land is situated.

relevant matter, for chapter 7, part 5, see section 358.

relevant matters, for an environmental evaluation, means the matters to be addressed by the evaluation.

relevant mining activity, for—

(a) an environmental authority for a mining activity—means the mining activity the subject of the authority; or

(b) an application for an environmental authority for a mining activity—means the mining activity the subject of the application; or

(c) a proposed PRC plan or PRC plan—means the mining activity to be carried out on land the subject of the plan.

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relevant mining lease, for an environmental authority, an application for an environmental authority, a proposed PRC plan or PRC plan for a mining activity, means a mining lease, or proposed mining lease, to which a relevant mining activity relates.

relevant mining tenure, for an environmental authority, an application for an environmental authority, a proposed PRC plan or PRC plan for a mining activity, means a mining tenure, or proposed mining tenure, to which a relevant mining activity relates.

relevant resource activity, for—

(a) an environmental authority for a resource activity—means a resource activity the subject of the authority; or

(b) an application for an environmental authority for a resource activity—means a resource activity the subject of the application; or

(c) a proposed PRC plan or PRC plan— means the relevant activities to be carried out on land the subject of the plan.

relevant tenure, for an environmental authority, an application for an environmental authority, a proposed PRC plan or PRC plan for a resource activity, means—

(a) a resource tenure to which a relevant resource activity relates; or

(b) a proposed resource tenure to which a relevant resource activity relates.

remediate, contaminated land, means—

(a) rehabilitate the land; or

(b) restore the land; or

(c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land.

replacement environmental authority, for an environmental authority, means—

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(a) if a new environmental authority is issued for the environmentally relevant activity the subject of the authority—the new environmental authority; or

(b) if the authority is amended—the amended environmental authority issued under section 242(1)(b); or

(c) if a transfer application for the authority is approved—the transferred environmental authority issued under section 255(1)(b); or

(d) if an amalgamation application for the authority is approved—the amalgamated environmental authority issued under section 248(b); or

(e) if the administering authority de-amalgamates an environmental authority under section 250C—each of the de-amalgamated environmental authorities issued under section 250C(1)(c).

residual risk assessment guideline means a guideline called 'The Residual Risk Assessment Guideline'—

(a) prepared by the chief executive; and

(b) published—

(i) on the administering authority's website; and

(ii) in other publicly available ways the administering authority considers appropriate.

residual risks, of land, means either or both of the following to the extent it relates to resource activities carried out on the land—

(a) the risk that, although the land has been rehabilitated and appropriately managed, remedial action will need to be carried out in relation to the land in the foreseeable future;

(b) the risk that ongoing management activities will need to be carried out in relation to the land, including—

(i) monitoring the condition of the land or site features of the land; and

(ii) taking action to prevent or minimise environmental harm caused by the land or site features of the land.

Examples of ongoing management activities—

- maintaining fences to ensure the safety of steep slopes or to prevent access to contaminated areas
- providing a pump-back system to manage the discharge of contaminants
- continuing a monitoring and verification plan under the GHG storage Act to ensure GHG stream storage under that Act is taking place as predicted

residual risks requirement, for chapter 5, part 10, division 6—see section 271(3).

resource activity see section 107.

resource activity EEO means an environmental enforcement order that imposes a requirement related to the carrying out of a resource activity.

resource legislation means any of the following Acts—

(a) the Geothermal Act;

(b) the GHG storage Act;

(c) the Mineral Resources Act;

(d) the *Petroleum Act 1923*;

(e) the P&G Act;

(f) the *Petroleum (Submerged Lands) Act 1982*.

resource project see section 112.

resource tenure means—

(a) a geothermal tenure; or

(b) a GHG storage tenure; or

(c) a mining tenure; or

(d) a petroleum tenure.

review date see section 521(2)(a)(i).

review decision see section 521(5)(c) and (6)(c).

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review or appeal details, for a notice or order, means a statement in the notice or order as follows—

(a) that a person as follows may apply for a review of, or appeal against, the decision to which the notice or order relates—

(i) the person given the notice or order;

(ii) another dissatisfied person for the original decision to which the notice or order relates;

(b) about whether the person may apply for a review or may appeal against the decision;

(c) about the period or time allowed for making the application for a review or for starting an appeal;

(d) if the person may apply for a review—about how to apply for a review;

(e) if the person may appeal—about how to start an appeal.

risk management plan, for land the subject of a surrender application, means a risk management plan included in a post-surrender management report for the land.

river basin, for chapter 4A, see section 75(2).

riverine area does not include land outside the flood flow channel of a watercourse.

sanitary convenience means a urinal, water closet, earth closet, cesspit, cesspool or other receptacle for human waste.

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 (Financial Provisioning) Act 2018*, section 24.

scheme manager means the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

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

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serious environmental harm see section 17.

show cause notice—

(a) for chapter 5A, part 5A, division 6—see section 318YR(1); or

(b) for chapter 7, part 8, division 2, subdivision 2—see section 375(1); or

(c) for chapter 7, part 8, division 2, subdivision 2—see section 391; or

(d) for chapter 12, part 3A, division 4, see section 574E(1).

show cause period, for chapter 5A, part 5A, division 6, see section 318YR(2)(e).

single integrated operation see section 113.

site features, of land, means each of the following—

(a) surface and subsurface infrastructure on the land related to resource activities;

(b) other structures on the land related to resource activities;

(c) modifications of the land related to resource activities carried out on the land.

Examples of modifications of land—

tailings storage facilities, voids, waste rock dumps

site investigation report, for relevant land, for chapter 7, part 8, see section 370.

site management plan, for relevant land, see section 370.

site-specific application, for chapter 5, see section 124.

site suitability statement, for relevant land, for chapter 7, part 8, see section 389(2)(b).

small scale mining activity means a mining activity that—

(a) is carried out under a mining claim, for corundum, gemstones or other precious stones, the area of which is not more than 20ha, and that—

(i) does not, or will not, at any time cause more than 5ha of land to be significantly disturbed; and

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(ii) is not, or will not be, carried out in a designated precinct in a strategic environmental area; and

(iii) is not, or will not be, carried out in a watercourse or riverine area; and

(iv) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area; and

(v) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area; and

(vi) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area for this definition; and

(vii) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and

(viii) is not, or will not be, carried out by more than 20 persons at any one time; and

(ix) does not, or will not, at any time cause more than 5,000m^2 of land to be disturbed at a camp site; or

(b) is carried out under an exploration permit, for minerals other than coal, the area of which is not more than 4 sub-blocks and that—

(i) is not, or will not be, carried out in a designated precinct in a strategic environmental area; and

(ii) is not, or will not be, carried out in a watercourse or riverine area; and

(iii) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area; and

(iv) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area; and

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(v) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area for this definition; and

(vi) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and

(vii) does not, or will not, at any time cause more than 1,000m^2 of land to be disturbed; or

(c) is carried out under a prospecting permit.

small scale mining tenure see section 21A(2).

spent conviction, for chapter 9, part 5A, see section 484B.

stable condition see section 111A.

standard application, for chapter 5, see section 122.

standard conditions—

(a) for an environmental authority or application for an environmental authority for an environmentally relevant activity—means the conditions applying for the activity under an ERA standard; or

(b) for a person carrying out an agricultural ERA—means the conditions applying for the agricultural ERA under an agricultural ERA standard.

standard criteria means—

(a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—

(i) the precautionary principle;

(ii) intergenerational equity;

(iii) conservation of biological diversity and ecological integrity; and

(b) any Commonwealth or State government plans, standards, agreements or requirements about

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environmental protection or ecologically sustainable development; and

(d) any relevant environmental impact study, assessment or report; and

(e) the character, resilience and values of the receiving environment; and

(f) all submissions made by the applicant and submitters; and

(g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—

(i) an environmental authority;

(ii) a transitional environmental program;

(iii) an environmental enforcement order;

(iv) a disposal permit;

(v) a development approval; and

(h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and

(i) the public interest; and

(j) any relevant site management plan; and

(k) any relevant integrated environmental management system or proposed integrated environmental management system; and

(l) any other matter prescribed under a regulation.

State-controlled road means a road or route, or part of a road or route, declared under the *Transport Infrastructure Act 1994*, section 24 to be a State-controlled road.

State Development Act means the *State Development and Public Works Organisation Act 1971*.

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State Development Minister means the Minister for the time being administering the State Development Act.

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).

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

stormwater includes a run-off of rainwater from an urban or rural source.

stormwater drainage, for chapter 8, part 3C, see section 440ZD.

strategic environmental area means a strategic environmental area under the *Regional Planning Interests Act 2014*.

submission period—

(a) for chapter 3, part 1—see section 39; or

(b) for chapter 5, part 4—see section 153(1)(g).

submitter—

(a) for an application or proposed PRC plan, means an entity who makes a properly made submission about the application or plan; or

(b) for chapter 7, part 8, division 3, subdivision 4, see section 397.

suitability report see section 318S(1).

suitability statement, for land, means a statement about the uses and activities for which the land is suitable.

suitably qualified person, for chapter 12, part 3, see section 564.

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surrender application, for an environmental authority, see section 257(1).

surrender notice, for an environmental authority, see section 258(2).

surrender rehabilitation direction see section 274(2).

suspension application, for an environmental authority, see section 284A.

tailored advice, for chapter 4A, part 4, see section 84.

temporary authority, for chapter 5, part 14A, see section 316GC(1).

temporary emissions licence see section 357B(1).

transfer application, for an environmental authority, see section 252.

transferred environmental authority, for chapter 5, part 9, see section 255(1)(b).

transfer tenure, for chapter 5, part 8, see section 243.

transitional environmental program means a transitional environmental program issued under chapter 7, part 3.

unlawful environmental harm means environmental harm that is unlawful under section 493A.

validation report, for chapter 7, part 8, see section 370.

variation application, for chapter 5, see section 123.

vehicle includes a train, boat and an aircraft.

waste see the *Waste Reduction and Recycling Act 2011*, section 8AA.

watercourse—

1 *Watercourse* means a river, creek or stream in which water flows permanently or intermittently—

(a) in a natural channel, whether artificially improved or not; or

(b) in an artificial channel that has changed the course of the watercourse.

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2 *Watercourse* includes the bed and banks and any other element of a river, creek or stream confining or containing water.

waters means Queensland waters.

wilfully means—

(a) intentionally; or

(b) recklessly; or

(c) with gross negligence.

Z Peak, for chapter 8, part 3B, see section 440K.

Z Peak Hold, for chapter 8, part 3B, see section 440K.

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Figure

section 4(3)

