Queensland

Petroleum and Gas (Production and Safety) Act 2004

Current as at [Not applicable]

Indicative reprint note

This is an ***unofficial*** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Resources Safety and Health Legislation Amendment Bill 2024. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act***.

An enacted but uncommenced amendment included in the *Integrity and*

Other Legislation Amendment Act 2024 No. 3 has also been incorporated in this indicative reprint.

Amendments to this Act are also included in the Energy (Renewable Transformation and Jobs) Bill 2023, the Land and Other Legislation Amendment Bill (No. 2) 2023 and the Mineral and Energy Resources and Other Legislation Amendment Bill 2024. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Resources Safety and Health Legislation Amendment Bill 2024—18 April 2024.

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Petroleum and Gas (Production and Safety) Act 2004

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Petroleum and Gas (Production and Safety) Act 2004

An Act about exploring for, recovering and transporting by pipeline, petroleum and fuel gas and ensuring the safe and efficient carrying out of those activities, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Petroleum and Gas (Production and Safety) Act 2004*.

2 Commencement

(1) Section 968, to the extent it inserts part 19, division 6, subdivisions 1 and 2 in the Mineral Resources Act commences on the date of assent.

(2) Otherwise, this Act commences on a day to be fixed by proclamation.

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Part 2 Purpose and application of Act

3 Main purpose of Act

(1) The main purpose of this Act is to facilitate and regulate the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum and fuel gas industry, in a way that—

(a) manages the State's petroleum resources—

(i) in a way that has regard to the need for ecologically sustainable development; and

(ii) for the benefit of all Queenslanders; and

(b) enhances knowledge of the State's petroleum resources; and

(c) creates an effective and efficient regulatory system for the carrying out of petroleum activities and the use of petroleum and fuel gas; and

(d) encourages and maintains an appropriate level of competition in the carrying out of petroleum activities; and

(e) creates an effective and efficient regulatory system for the construction and operation of pipelines; and

(f) ensures petroleum activities are carried on in a way that minimises conflict with other land uses; and

(g) optimises coal seam gas production and coal or oil shale mining in a safe and efficient way; and

(h) appropriately compensates owners or occupiers of land; and

(i) encourages responsible land management in the carrying out of petroleum activities; and

(j) facilitates constructive consultation with people affected by activities authorised under this Act; and

(k) regulates and promotes the safety of persons in relation to operating plant.

(2) In this section—

petroleum activities means—

(a) the exploration, distillation, production, processing, refining, storage and transport of petroleum; and

(b) the distillation, production, processing, refining, storage and transport of fuel gas; and

(c) authorised activities for petroleum authorities; and

(d) other activities authorised under this Act for petroleum authorities.

3A Other purposes of Act

(1) Other purposes of this Act are—

(a) to facilitate the operation of the *Geothermal Energy Act 2010* (the ***Geothermal Act***) and the *Greenhouse Gas Storage Act 2009* (the ***GHG storage Act***); and

(b) to facilitate and regulate, as a key authorised activity for pipeline licences, the construction and operation of pipelines for regulated hydrogen in a way that is safe, effective and efficient.

(2) The Geothermal Act is facilitated by—

(a) applying provisions of this Act about safety to particular authorised activities for geothermal tenures under that Act; and

(b) applying provisions of this Act about investigations and some of its provisions about enforcement for that Act.

(3) The GHG storage Act is facilitated by—

(a) providing for survey licences to be able to be granted for potential pipelines for GHG streams; and

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(b) providing for pipeline licences to be able to granted for GHG streams; and

(c) applying provisions of this Act about safety to particular authorised activities for authorities under that Act; and

(d) applying provisions of this Act about investigations and some of its provisions about enforcement for that Act.

4 Act binds all persons

(1) This Act binds all persons, including the State, and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

5 Application of Act to coastal waters of the State

(1) This Act applies to the coastal waters of the State as if the coastal waters of the State were part of the State.

(2) However, this Act does not apply to the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

6 Relationship with Mineral Resources Act

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

Note—

See also the Mineral Resources Act, section 3A (Relationship with petroleum legislation).

For the relationship between this Act and the Mineral Resources Act in relation to coal or oil shale mining tenements, see chapter 3 (Provisions for coal seam gas).

(2) The Mineral Resources Act does not limit or otherwise affect—

(a) the power to grant or renew a petroleum authority over land (the ***overlapping land***) in the area of a mining tenement; or

(b) a petroleum authority already granted over land (also the ***overlapping land***) in the area of an existing mining tenement.

(3) However—

(a) if the petroleum authority is a pipeline licence or petroleum facility licence—it is subject to section 400 or 440; and

(b) if the petroleum authority is another type of petroleum authority—it is subject to subsections (4) to (6).

(4) If the mining tenement is a mining lease (other than a transportation mining lease), an authorised activity for the petroleum authority may be carried out on the overlapping land only if—

(a) the mining lease holder has agreed in writing to the carrying out of the activity; and

(b) a copy of the agreement has been lodged; and

Note—

For other relevant provisions about lodging documents, see section 851AA.

(c) the agreement is still in force.

(5) If the mining tenement is an exploration permit, mineral development licence or transportation mining lease and the petroleum authority is an authority to prospect, an authorised activity for the petroleum authority may be carried out on the overlapping land only if—

(a) the mining tenement holder has agreed in writing to the carrying out of the activity, a copy of the agreement has been lodged and the agreement is still in force; or

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(b) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenement that has already started.

(6) If the mining tenement is an exploration permit or a mineral development licence and the petroleum authority is a petroleum lease, an authorised activity for the mining tenement may be carried out on the overlapping land only if—

(a) the petroleum lease holder has agreed in writing to the carrying out of the activity; and

(b) a copy of the agreement has been lodged; and

(c) the agreement is still in force.

(7) In this section—

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

6A Relationship with Nature Conservation Act 1992

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

6B Relationship with Geothermal Act and GHG storage Act

The relationship between this Act, the Geothermal Act and the GHG storage Act and authorities under them is provided for under—

(a) chapter 3A; and

(b) the Geothermal Act, chapter 5; and

(c) the GHG storage Act, chapter 4.

6BA Relationship with Common Provisions Act

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

6C Declaration for Commonwealth Act

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

7 Act does not affect other rights or remedies

(1) Subject to sections 294, 563A and 856 and chapter 3, part 8, this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

(2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.

(3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.

(4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

8 Native title

(1) This section applies for applying this Act to land where native title exists.

(2) A native title holder within the meaning of the Commonwealth Native Title Act, section 224 has the procedural and other rights that the holder has under that Act.

(3) Subsection (2) applies despite any other provision of this Act.

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Part 3 Interpretation

Division 1 Dictionary

9 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

10 Meaning of *petroleum*

(1) ***Petroleum*** is—

(a) a substance consisting of hydrocarbons that occur naturally in the earth's crust; or

(b) a substance necessarily extracted or produced as a by-product of extracting or producing a hydrocarbon mentioned in paragraph (a); or

(c) a fluid that—

(i) is extracted or produced from coal or oil shale by a chemical or thermal process or that is a by-product of that process; and

(ii) consists of, or includes, hydrocarbons; or

Example of a fluid that is petroleum under paragraph (c)—

mineral (f)

(d) another substance prescribed under a regulation, consisting of, or including, hydrocarbons; or

(e) a gas, that occurs naturally in the earth's crust, as prescribed under a regulation.

(2) A substance mentioned in subsection (1)(c) is a ***gasification or retorting product***.

(3) To remove any doubt, it is declared that ***petroleum*** does not include any of the following—

(a) alginite;

(b) coal;

(c) lignite;

(d) peat;

(e) oil shale;

(f) torbanite;

(g) water.

(4) A substance does not cease to be petroleum merely because it is injected or reinjected into a natural underground reservoir.

(5) To remove any doubt, it is declared that, for this Act and petroleum authorities under it, this section preserves, for this Act, the effect of section 150(2) and (3) of the 1923 Act.

(6) In this section—

hydrocarbon means a hydrocarbon in a gaseous, liquid, or solid state.

11 Meaning of *LPG*, *fuel gas* and *hydrogen gas blend*

(1) ***LPG***, also called 'LP gas' and 'liquefied petroleum gas', is a substance that—

(a) is in a gaseous state at standard temperature and pressure; and

(b) is predominately propane, propylene or butane; and

(c) has been processed to be suitable for use by consumers.

(2) ***Fuel gas*** is—

(a) LPG; or

(b) processed natural gas; or

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Not authorised—indicative only

(c) hydrogen, or a hydrogen gas blend, used or intended to be used as a fuel to produce heat, light or power; or

(d) another substance prescribed by regulation that is similar to LPG or processed natural gas.

(3) A ***hydrogen gas blend*** is processed natural gas and hydrogen that have been blended together.

(4) In this section—

processed natural gas means a substance that—

(a) is in a gaseous state at standard temperature and pressure; and

(b) consists of hydrocarbons that occur naturally and other substances; and

(c) is more than half, by volume, methane; and

(d) has been processed to be suitable for use by consumers of fuel gas.

standard temperature and pressure means an absolute pressure of 101.325kPa at a temperature of 15ºC.

11A Meaning of *regulated hydrogen*

Regulated hydrogen is—

(a) hydrogen; or

(b) a hydrogen gas blend; or

(c) another substance prescribed by regulation that is involved in, or produced for, a process related to the storage or transport of hydrogen.

12 What is a *prescribed storage gas*

A ***prescribed storage gas*** is any of the following—

(a) a gas associated with, or that results from, petroleum production;

Example—

fuel gas produced at a processing plant

(b) another gas prescribed under a regulation as being suitable for storage in a natural underground reservoir.

Example of gases suitable for storage in a natural underground reservoir—

gases produced from a waste disposal tip

13 What is a *natural underground reservoir*

(1) A ***natural underground reservoir*** is a part of a geological formation or structure—

(a) in which petroleum or another gas prescribed under a regulation has accumulated; or

(b) that is suitable to store petroleum or a prescribed storage gas.

(2) A geological formation or structure mentioned in subsection (1) does not cease to be a natural underground reservoir merely because it has been modified for petroleum production or storage or to store a prescribed storage gas.

(3) In this section—

geological formation includes a coal seam.

14 What is *exploring* for petroleum

Exploring, for petroleum, is carrying out an activity for the purpose of finding petroleum or natural underground reservoirs.

Examples—

- conducting a geochemical, geological or geophysical survey
- drilling a well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis

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Not authorised—indicative only

15 When petroleum is *produced*

(1) Petroleum is ***produced*** when it is—

(a) recovered to ground level from a natural underground reservoir in which it has been contained; or

(b) released to ground level from a natural underground reservoir from which it is extracted.

(2) If, under the Mineral Resources Act a coal or oil shale mining lease holder mines coal seam gas, for this Act, the lease holder ***produces*** it.

15A What is *produced water*

(1) ***Produced water*** is—

(a) CSG water; or

(b) associated water for a petroleum tenure.

(2) A reference to ***produced water*** includes—

(a) treated and untreated CSG water; and

(b) concentrated saline water produced during the treatment of CSG water.

16 What is a *pipeline*

(1) A ***pipeline*** is a pipe, or system of pipes, for transporting—

(a) generally—petroleum, fuel gas, produced water, prescribed storage gases or regulated hydrogen; and

(b) GHG streams; and

(c) substances prescribed under section 402.

Note—

There is no automatic right to use a pipeline for a substance mentioned in paragraph (b) or (c). A condition of a pipeline licence may extend the licence holder's rights to include those substances. See sections 401 and 402.

(2) A reference to a ***pipeline*** includes—

(a) a part of the pipeline, including the pipeline's end points; and

(b) a thing connected to or associated with the pipeline that is necessary for its operation.

Examples of things that may be included in a reference to a pipeline—

- meter stations, scraper stations, valve stations, pumping stations or compressor stations
- plant and equipment, machinery and tanks
- corrosion protection apparatus
- communications equipment and towers

(3) A pipeline's ***end points*** are—

(a) if the pipeline has not operated for the first time—the points at which a substance mentioned in subsection (1) will enter or exit the pipeline on the day the pipeline first operates; or

(b) otherwise—the points at which the substance enters or exits the pipeline.

16A What is a *distribution pipeline*

(1) A ***distribution pipeline*** is—

(a) a pipeline that transports fuel gas as part of a reticulation system within a gas market; or

(b) a single point-to-point pipeline that transports fuel gas to—

(i) a place other than a major user facility; or

(ii) another single point-to-point pipeline that transports fuel gas to a place other than a major user facility.

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(2) However, a pipeline is not a ***distribution pipeline*** if it transports fuel gas to a pipeline mentioned in subsection (1)(a) or (b)(ii).

(3) In this section—

major user facility means—

(a) a facility within the area of a resource authority; or

(b) a facility operated as a place of export for fuel gas, including, for example, a port; or

(c) a facility operated for the liquefaction of fuel gas before it is transported to a facility mentioned in paragraph (b); or

(d) a facility that produces non-organic fertiliser; or

(e) a petroleum facility; or

(f) a power station; or

(g) a smelter.

point-to-point pipeline means a pipeline from a particular point or points to another particular point or points.

17 What is a *petroleum facility*

A ***petroleum facility*** is a facility for the distillation, processing, refining, storage or transport of petroleum, other than a distribution pipeline.

Examples of things that may be a petroleum facility—

- a storage depot
- a meter station
- a petroleum processing plant
- an oil refinery
- an LPG separation plant

18 Types of authority under Act

(1) The following are the types of authority under this Act—

(a) an ***authority to prospect***—

(i) granted under section 41; or

(ii) continued in force under section 83 or 119; or

(iii) renewed under section 84;

(b) a ***petroleum lease***—

(i) granted under section 120, 132, 340 or 356 or chapter 15; or

(ii) continued in force under section 163; or

(iii) renewed under section 164;

(c) a ***data acquisition authority***, granted under section 178;

(d) a ***water monitoring authority*** granted under section 192;

(e) a ***survey licence*** granted under section 396;

(f) a ***pipeline licence***—

(i) granted under section 410; or

(ii) continued in force under section 481; or

(iii) renewed under section 482;

(g) a ***petroleum facility licence***—

(i) granted under section 446; or

(ii) continued in force under section 481; or

(iii) renewed under section 482;

(h) a ***gas work licence*** granted under chapter 9, part 6, division 3, subdivision 1;

(i) a ***gas work authorisation*** granted under chapter 9, part 6, division 3, subdivision 1;

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(j) a ***gas device approval authority*** granted under chapter 9, part 6A, division 2.

(2) The authorities, other than a gas work licence, gas work authorisation or gas device approval authority, are collectively referred to as a ***petroleum authority***.

(3) Authorities to prospect and petroleum leases are collectively referred to as a ***petroleum tenure***.

(4) Survey licences, pipeline licences and petroleum facility licences are collectively referred to as a ***licence***.

19 Who is an *eligible person*

An ***eligible person*** is—

(a) an adult; or

(b) a company or a registered body under the Corporations Act; or

(c) a government owned corporation.

20 What are the *conditions* of a petroleum authority

(1) The ***conditions*** of a petroleum authority are—

(a) the conditions stated in it from time to time; and

(b) the authority holder's obligations under chapters 2 to 5; and

(c) any condition of the authority under chapters 2 to 5; and

(d) a condition that an authority holder must ensure each person acting for the holder who carries out an authorised activity for the authority complies with its conditions to the extent they apply to the carrying out of the activity.

Note—

For who may carry out an authorised activity for the holder, see section 563.

(2) A condition mentioned in subsection (1)(b) or (c) is a ***mandatory condition*** of the authority.

Note—

If a Coordinator-General's condition applies to a petroleum lease, pipeline licence or petroleum facility licence, or proposed petroleum lease, pipeline licence or petroleum facility licence, for a coordinated project, and the condition conflicts with a mandatory condition for that type of petroleum authority, the Coordinator-General's condition prevails to the extent of the inconsistency. See sections 123A, 412A and 447A.

21 What are the *provisions* of a petroleum authority

(1) A reference in this Act to an authority under this Act includes a reference to its provisions.

(2) A reference in this Act to the provisions of the authority is a reference to its mandatory or other conditions and any thing written in it.

22 What is an *authorised activity*

(1) An ***authorised activity***, for a petroleum authority, is an activity that its holder is, under this Act or the authority, entitled to carry out in relation to the authority.

Notes—

1 The provisions of the authority may restrict the carrying out of authorised activities. See sections 42, 85, 123, 165, 178, 396, 412, 447, 484 and 790(3).

2 The carrying out of authorised activities is subject to the restrictions and the authority holder's rights and obligations under chapters 2 to 5. See section 562.

3 The carrying out of particular activities on particular land in a petroleum authority's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

4 For who may carry out an authorised activity for a petroleum authority holder, see section 563.

(2) An ***authorised activity***, for a coal or oil shale mining tenement, is an activity that its holder is, under the Mineral

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Resources Act or the tenement, entitled to carry out or exercise in relation to the tenement.

(3) An ***authorised activity***, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out or exercise in relation to the authority.

(4) An ***authorised activity***, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or the tenure, entitled to carry out or exercise in relation to the tenure.

23 What is a *work program* for an authority to prospect

(1) The ***work program*** for an authority to prospect is its current initial or later work program approved under chapter 2, part 1, division 3, as amended from time to time under chapter 2, part 1, division 3, subdivision 6.

(2) For subsection (1), the work program is current if the period to which the program applies has started and not ended.

24 What is a *development plan* for a petroleum lease

(1) The ***development plan*** for a petroleum lease is its current initial or later development plan approved under chapter 2, part 2, division 4.

(2) For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.

Part 4 Property in petroleum

26 Petroleum the property of the State

(1) This section is subject to section 28 and chapter 2, part 6, division 3.

(2) All petroleum as follows is, and always has been, the property of the State—

(a) petroleum on the surface of land, if it was produced in the State;

(b) petroleum in a natural underground reservoir in the State, other than petroleum in the reservoir produced outside the State and injected or reinjected into the reservoir.

(3) To remove any doubt, it is declared that—

(a) a person does not acquire any property in petroleum merely because the person discovers petroleum in a natural underground reservoir; and

(b) subsection (2)(a) applies whether or not the land is freehold or other land; and

(c) subsection (2)(b) applies whether or not the natural underground reservoir is in or under freehold or other land.

(4) This section applies despite any other Act, grant, title or other document in force from the commencement of this section.

(5) In this section—

the State does not include any of the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

27 Petroleum reservation in land grants

(1) This section applies to each grant under another Act, other than the 1923 Act, of a right—

(a) relating to land that, immediately before the grant, was unallocated State land as defined under the *Land Act 1994*; and

(b) that is, or was, issued on or after the commencement of the 1923 Act.

Note—

The 1923 Act commenced on 12 November 1923.

(2) The grant is taken to contain a reservation to the State of—

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(a) all petroleum on or below the surface of the land; and

(b) the exclusive right to do the following in relation to the land—

(i) to enter and carry out any petroleum-related activity;

(ii) to authorise, under the provisions of this Act or another Act, others to carry out any petroleum-related activity;

(iii) to regulate, under the provisions of this Act or another Act, petroleum-related activities carried out by others.

(3) In this section—

grant, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.

petroleum-related activity means any activity that may be carried out under this Act by the holder of any petroleum authority.

28 Property in petroleum produced

(1) If a person produces petroleum, it becomes the person's property—

(a) if the petroleum is produced under this Act; or

(b) for coal seam gas—if it is mined under the Mineral Resources Act, section 318CM or 747.

(2) However, subsection (1) is subject to—

(a) any coordination arrangement or storage agreement to which the person is a party; and

(b) any order of the Land Court under section 116; and

(c) chapter 2, part 6, division 3.

(3) Subsection (1) does not cease to apply merely because the petroleum is injected or reinjected into a natural underground reservoir.

Part 5 General provisions for petroleum authorities

30 Petroleum authority does not create an interest in land

The granting of a petroleum authority does not create an interest in any land.

30AA Extinguishing petroleum interests on the taking of land in a petroleum authority's area (other than by an easement)

(1) This section applies to the taking of land, other than by taking or otherwise creating an easement, under a resumption law.

(2) Despite any other Act, the taking of land does not extinguish petroleum interests other than to the extent, if any, provided for in the resumption notice for the taking of the land.

(3) The resumption notice for the taking of land may provide for the extinguishment of a petroleum interest on the taking only to the extent the relevant Minister for the taking is satisfied the interest is incompatible with the purpose for which the land is taken.

(4) Without limiting the application of subsection (3), the relevant Minister may be satisfied a petroleum interest is incompatible with the purpose for which the land is taken if, for that purpose, it is necessary to extinguish all interests in the land, including native title rights and interests.

(5) A petroleum interest may be—

(a) wholly extinguished; or

(b) partially extinguished by—

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(i) excluding land from the land the subject of the interest; or

(ii) prohibiting the carrying out of activities by the holder of the interest.

(6) The resumption notice for the taking of land may provide for the extinguishment of petroleum interests by reference to either or both of the following—

(a) stated land, which—

(i) may be all or part of the land that is taken; and

(ii) if the stated land is only part of the land that is taken—may be described in the resumption notice in any way, including, for example—

(A) as a shape that does not constitute a block or sub-block; or

(B) by using 3 dimensionally located points to identify the position, shape and dimensions of each boundary;

(b) stated petroleum interests, which may be all petroleum interests or petroleum interests of a particular type.

(7) For the taking of land for which petroleum interests are extinguished as provided by this section—

(a) each person's interest in an extinguished petroleum interest is converted into a right to claim compensation under the resumption law; and

(b) the resumption law applies with necessary and convenient changes and with the changes mentioned in subsections (8) and (9) and section 30AD.

(8) The notice of intention to resume for the proposed taking of the land must state the extent to which the petroleum interests are proposed to be extinguished.

(9) The entity taking the land must give the chief executive a notice that—

(a) states the details of the extinguishment; and

(b) asks for the extinguishment to be recorded in the register; and

(c) is accompanied by a certified copy of the resumption notice.

(10) In this section—

certified copy, of the resumption notice, means a copy of the original of the notice that has been certified by a justice of the peace as being a correct copy of the original notice.

relevant Minister, for the taking of land under a resumption law, means—

(a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the Minister to whom the application that the land be taken is made under section 9 of that Act; or

(b) otherwise—the Minister administering the resumption law under which the land is, or is to be, taken.

30AB Effect of extinguishment of petroleum interests on the taking of land in a petroleum authority's area (other than by an easement)

(1) This section applies if, under section 30AA, the resumption notice for the taking of land (other than by taking or otherwise creating an easement) under a resumption law provides for the extinguishment of petroleum interests for stated land.

(2) If the resumption notice states that all petroleum interests relating to the stated land are extinguished and a petroleum interest relates only to the stated land, the interest is wholly extinguished.

(3) If the resumption notice states that all petroleum interests relating to the stated land are extinguished and a petroleum interest relates to the stated land and other land—

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(a) the stated land is no longer the subject of the interest; and

(b) without limiting paragraph (a)—

(i) the stated land is excluded from the area of the petroleum authority comprising the interest, or under or in relation to which the interest exists; and

(ii) this Act applies, in relation to the area of the petroleum authority, with necessary and convenient changes to allow for the exclusion of the stated land, including, for example—

(A) to allow the area to include a part of a block or sub-block if the part is what is left after the stated land is excluded from the area; and

(B) if the stated land, or a part of it, is within a potential commercial area for an authority to prospect—to exclude the stated land or part from the potential commercial area.

(4) If the resumption notice states that the carrying out of stated activities on the stated land by holders of stated petroleum interests is prohibited, the holder of a stated petroleum interest is not, or is no longer, authorised to carry out the stated activities on the stated land.

(5) However, subsections (3) and (4) do not apply in relation to a petroleum interest that comprises, or exists under or in relation to, a new or renewed petroleum authority granted after the land is taken.

30AC Applications relating to land taken under a resumption law for which petroleum interests were extinguished

(1) The Minister may, under a grant provision, grant a petroleum authority for an area that includes acquired land only if the Minister, after consulting the entity that took the land, is satisfied the grant of the authority is compatible with the purpose for which the land is being or is to be used.

(2) If there are 2 or more applications under this Act for the grant, under a grant provision, of a new petroleum authority for an area that includes the same acquired land, the applications are to be dealt with as follows—

(a) the applications must be considered and decided according to the day on which they are lodged;

(b) if the applications were lodged on the same day—

(i) they take the priority the Minister decides, after considering the relative merits of each application; and

(ii) the Minister must give each applicant a notice stating there is competition for priority between the applicant's application and another application, or other applications, lodged on the same day as the day on which the applicant's application was lodged.

(3) If a grant provision provides for the grant of a new petroleum authority (the ***new authority***) over land in the area of an existing petroleum authority or 1923 Act ATP (the ***existing authority***)—

(a) the application under this Act for the new authority may include acquired land that was, immediately before the taking of the land, in the existing authority's area; and

(b) subject to subsections (1) and (2), the Minister may grant a new authority for an area that includes the acquired land as if the acquired land were in the existing authority's area.

(4) To remove any doubt, it is declared that this section does not affect the operation of the provisions of this Act about the application for, and grant of, a new petroleum authority other than to the extent provided for in subsections (1) to (3).

(5) In this section—

grant provision means a provision of this Act providing for the grant of a new petroleum authority.

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new petroleum authority includes a renewed petroleum authority.

30AD Compensation for effect of taking of land in a petroleum authority's area on petroleum interests

(1) This section applies if land in a petroleum authority's area is taken (including by taking or otherwise creating an easement) under a resumption law other than sections 456 to 458 of this Act.

(2) In assessing any compensation to be paid to the holder of a petroleum interest in relation to the taking of the land, allowance can not be made for the value of petroleum known or supposed to be in, or produced from, the land.

Note—

See section 458(3) in relation to land in a petroleum authority's area taken under sections 456 to 458 of this Act.

30A Joint holders of a petroleum authority

(1) A petroleum authority may be held by 2 or more persons as joint tenants or as tenants in common.

(2) If—

(a) an application is made for a petroleum authority, or for approval to register a transfer of a petroleum authority under the Common Provisions Act, for more than 1 proposed holder or transferee; and

(b) the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and

(c) the application is granted;

the chief executive must record in the register that the applicants hold the authority as tenants in common.

(3) In this section—

petroleum authority includes a share in a petroleum authority.

Chapter 2 Petroleum tenures and related matters

Notes—

1 For the requirement for a petroleum tenure, see section 800.

2 Chapters 3 and 3A impose requirements for and restrictions on the granting of and restrictions on authorised activities that may be carried out under particular petroleum tenures. See sections 297 and 392AA.

Part 1 Authorities to prospect

Division 1 Key authorised activities

31 Operation of div 1

(1) This division provides for the key authorised activities for an authority to prospect.

Notes—

1 For other authorised activities, see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2.

2 The carrying out of particular activities on particular land in an authority to prospect's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the authorised activities is subject to—

(a) section 6; and

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Not authorised—indicative only

(b) chapter 3, part 4, division 2; and

(c) chapter 3, part 4A; and

(d) chapter 3A, part 5; and

(e) chapters 5 and 9; and

(f) the mandatory and other conditions of the authority; and

(g) any exclusion or restriction provided for in the authority on the carrying out of the activities; and

(h) any other relevant Act or law.

32 Exploration and testing

(1) The authority to prospect holder may carry out any of the following activities in the area of the authority—

(a) exploring for petroleum;

(b) testing for petroleum production;

(c) evaluating the feasibility of petroleum production;

(d) evaluating or testing natural underground reservoirs for the storage of petroleum or a prescribed storage gas;

(e) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

(2) However, the holder must not carry out any of the following—

(a) extraction or production of a gasification or retorting product from coal or oil shale by a chemical or thermal process;

(b) exploration for coal or oil shale to carry out extraction or production mentioned in paragraph (a);

(c) GHG stream storage.

(3) The carrying out of activities mentioned in subsection (1), other than exploring for petroleum, is subject to sections 71A and 71B.

(4) The rights under subsection (1) may be exercised only by or for the holder.

Note—

For who may exercise the rights for the holder, see section 563.

33 Incidental activities

(1) The authority to prospect holder may carry out an activity (an ***incidental activity***) in the area of the authority if carrying out the activity is reasonably necessary for, or incidental to, an authorised activity under section 32(1) for the authority or another authority to prospect.

Examples of incidental activities—

1 constructing or operating plant or works, including, for example, communication systems, pipelines associated with petroleum testing, powerlines, roads, separation plants, evaporation or storage ponds, tanks and water pipelines

2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps

3 removing vegetation for, or for the safety of, exploration or testing under section 32(1)

Note—

See also part 10, section 239, chapter 5 and section 20.

(2) However, neither of the following activities is an incidental activity—

(a) constructing or using a structure, other than a temporary structure, for office or residential accommodation;

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

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Not authorised—indicative only

(b) the processing of gaseous petroleum, other than gaseous petroleum produced as an unavoidable result of ATP production testing.

(3) In this section—

gaseous petroleum means petroleum in a gaseous state.

processing, of gaseous petroleum, means treating the petroleum to be suitable for transport.

Division 2 Obtaining authority to prospect

Subdivision 1 Preliminary

34 Operation of div 2

(1) This division provides for a process for the granting of authorities to prospect by competitive tender.

(2) To remove any doubt, it is declared that an authority to prospect can only be granted under this division or division 8, subdivision 2.

Subdivision 2 Competitive tenders

35 Call for tenders

(1) The Minister may publish a gazette notice (a ***call for tenders***) inviting tenders for an authority to prospect.

(2) The call must state—

(a) the proposed area of the authority; and

(b) the proposed term of the authority; and

(c) that, under section 99, particular land may be excluded land for the authority; and

(d) that the tenders must be accompanied by a proposed initial work program for the period mentioned in paragraph (h)(ii); and

(e) whether the proposed initial work program under paragraph (d) must be a proposed work program (activities-based) or a proposed work program (outcomes-based); and

(f) the day and time by which tenders in response to it must be made (the ***closing time*** for the call); and

(g) that the tenders must be lodged before the closing time for the call; and

(h) that details about each of the following are available at a stated place—

(i) any proposed conditions of the authority, other than mandatory conditions, that are likely to impact significantly on exploration in the proposed area;

(ii) the required program period for the initial work program for the authority;

(iii) any criteria (***special criteria***), other than the work program criteria and capability criteria, proposed to be used to decide whether to grant the authority, or to decide its provisions;

(iv) whether a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call;

(v) if any part of the proposed area of the authority is to be subject to an Australian market supply condition—the part of the proposed area and the condition.

(3) The call may state other relevant matters, including, for example, matters relevant to the special criteria, work program criteria and capability criteria.

(4) The area of the authority must comply with section 98.

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Not authorised—indicative only

(5) Subsection (2)(h)(i) does not limit the Minister's power to decide conditions of the authority if it is granted.

36 Right to tender

(1) An eligible person may, by a tender made under section 37, tender for a proposed authority to prospect the subject of a call for tenders.

(2) However, the tender can not be made—

(a) after the closing time for the call; or

(b) for only part of the area of the proposed authority.

37 Requirements for making tender

A tender for an authority to prospect must—

(a) be lodged in the approved form; and

(b) address the capability criteria; and

(c) include a proposed work program that complies with the initial work program requirements; and

(d) be accompanied by the following—

(i) the fee prescribed under a regulation;

(ii) if a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call—the tenderer's cash bid.

37A Rejection of tender if tenderer disqualified

(1) The Minister must reject a tender for an authority to prospect if the Minister decides the tenderer is disqualified under the Common Provisions Act, chapter 7 from being granted the authority to prospect.

(2) On rejection of the tender, the Minister must give the tenderer a notice about the decision.

38 Right to terminate call for tenders

(1) The Minister may, by gazette notice, terminate a call for tenders at any time before deciding to grant an authority to prospect to a person who has made a tender in response to the call.

(2) All tenders in response to the call lapse when the call is terminated.

(3) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the termination.

(4) However, subject to sections 40(4) and 845(5), the Minister must refund any tender security given by the tenderer.

Subdivision 3 Deciding tenders

39 Process for deciding tenders

(1) Subject to section 43, any process the Minister considers appropriate may be used to decide a call for tenders, including, for example—

(a) a process appointing a preferred tenderer on the tenders made in response to the call (whether or not involving a cash bid component); or

(b) a process involving short-listing a group of possible preferred tenderers and inviting them to engage in another round of tendering before appointing a preferred tenderer from that group.

(2) Without limiting subsection (1), the Minister may give a tenderer a notice requiring the tenderer to give the Minister, within the reasonable period stated in the notice, information the Minister reasonably requires to assess the tender.

Not authorised—indicative only

Not authorised—indicative only

40 Provisions for preferred tenderers

(1) The Minister may require a preferred tenderer for the call for tenders to—

(a) pay any amounts necessarily incurred, or to be incurred, to enable the authority to prospect to be granted; and

Example—

amounts required to comply with the Commonwealth Native Title Act, part 2, division 3, subdivision P

(b) to do all or any of the following within a stated reasonable period—

(i) pay the annual rent for the first year of the authority;

(ii) give, under section 488, security for the authority.

(2) If a preferred tenderer does not—

(a) comply with a requirement under subsection (1); or

(b) do all things reasonably necessary to allow an authority to prospect to be granted to the tenderer;

the Minister may revoke the tenderer's appointment as the preferred tenderer.

(3) However, before acting under subsection (2), the Minister must give the preferred tenderer a reasonable opportunity to provide reasons for, and rectify, the tenderer's failure to comply with a requirement under subsection (1) or (2)(b).

(4) If the Minister revokes the appointment of the tenderer as the preferred tenderer under this section, the Minister may—

(a) retain the whole or part of any tender security given by the tenderer, if the Minister considers it reasonable in the circumstances; and

(b) appoint another tenderer to be the preferred tenderer.

41 Deciding whether to grant authority to prospect

(1) The Minister may, after the closing time for the call for tenders—

(a) grant an authority to prospect to 1 tenderer; or

(b) refuse to grant any authority to prospect.

(2) However—

(a) before deciding to grant the authority, the Minister must decide whether to approve the applicant's proposed initial work program for the authority; and

(b) the Minister can not grant the authority unless—

(i) the tenderer is an eligible person; and

(ii) the proposed program has been approved; and

(iii) a relevant environmental authority for the authority to prospect has been issued.

Note—

If a tender relates to acquired land, see also section 30AC.

(3) The Minister may impose on the authority the conditions the Minister considers appropriate.

(4) Subsection (3) does not limit or otherwise affect section 42(3)(a) or (3A).

42 Provisions of authority to prospect

(1) Each authority to prospect must state its term and area.

(2) The term—

(a) must be for at least the required program period for the initial work program for the authority under the call for tenders; but

(b) must end no later than 12 years after the authority takes effect.

(3) The authority may also state—

Not authorised—indicative only

Not authorised—indicative only

(a) conditions or other provisions of the authority, other than conditions or provisions that are—

(i) inconsistent with the mandatory conditions for authorities to prospect; or

(ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and

(b) the day it takes effect.

(3A) The conditions of the authority may include an Australian market supply condition applying to all or part of the area of the authority.

(4) However, the provisions of the authority may exclude or restrict the carrying out of an authorised activity for the authority.

(5) The day of effect must not be before the day the authority is granted.

(6) If no day of effect is stated, the authority takes effect on the day it is granted.

42A Amendment of conditions by Minister if exceptional event

(1) This section applies if the Minister considers the conditions of an authority to prospect must be amended because of an exceptional event affecting the authority.

(2) The Minister may amend the authority by imposing a condition on, or varying or removing a condition of, the authority without application from the holder.

(3) The amendment takes effect 10 business days after the holder is given the notice or, if the notice states a later day of effect, the later day.

(4) This section does not limit section 41(3).

43 Criteria for decisions

(1) The matters that must be considered in deciding whether to grant an authority to prospect or deciding its provisions include—

(a) any special criteria; and

(b) the extent to which the Minister is of the opinion that the tenderer is capable of carrying out authorised activities for the authority, having regard to the tenderer's—

(i) financial and technical resources; and

(ii) ability to manage petroleum exploration and production; and

(c) the applicant's proposed initial work program.

(2) The matters mentioned in subsection (1)(b) are the ***capability criteria***.

(3) A person ***satisfies*** the capability criteria if the Minister forms the opinion mentioned in subsection (1)(b).

44 Notice to unsuccessful tenderers

(1) After a call for tenders has been decided, each tenderer not granted the authority to prospect must be given notice of the decision.

Note—

See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

(2) Subject to sections 40(4) and 845(5), the Minister must refund any tender security given by the tenderer.

Not authorised—indicative only

Not authorised—indicative only

Division 3 Work programs

Subdivision 1 Types of work program

45 Types of work program for authority to prospect

(1) A ***work program*** for an authority to prospect is—

(a) a work program (activities-based); or

(b) a work program (outcomes-based).

(2) A ***work program (activities-based)*** for an authority to prospect is a document stating—

(a) the activities proposed to be carried out during the period of the program; and

(b) the estimated human, technical and financial resources proposed to be committed to exploration during the period of the program.

(3) A ***work program (outcomes-based)*** for an authority to prospect is a document stating—

(a) the outcomes proposed to be pursued during the period of the program; and

(b) the strategy for pursuing the outcomes mentioned in paragraph (a); and

(c) the information and data proposed to be collected about the existence of petroleum or gas during the period of the program; and

(d) the estimated human, technical and financial resources proposed to be committed to exploration during the period of the program.

Subdivision 2 Requirements for proposed initial work programs

46 Operation of subdivision

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

47 Program period

(1) The proposed initial work program must state its period.

(2) The period must be the same as the required period under the relevant call for tenders.

48 General requirements

(1) The proposed initial work program must be of the type required under section 35(2)(e).

(2) The proposed initial work program must include—

(a) maps that show where the exploration under the proposed authority to prospect is proposed to be carried out; and

(b) reasons why the holder of the proposed authority to prospect considers the program to be appropriate; and

(c) any other information relevant to the work program criteria; and

(d) any other information prescribed by regulation.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Criteria for deciding whether to approve proposed initial work programs

49 Criteria

(1) The matters that must be considered in deciding whether to approve a proposed initial work program include the appropriateness of the tenderer's proposed work program, having regard to each of the following—

(a) the potential of the proposed area of the authority to prospect for petroleum discovery;

(b) the extent and nature of the proposed petroleum exploration;

Examples—

- proposed geological, geophysical or geochemical surveying
- the number of petroleum wells the tenderer proposes to drill, and their type

(c) when and where the tenderer proposes to carry out the exploration.

(2) The matters mentioned in subsection (1) are the ***work program criteria***.

Subdivision 4 Requirements for proposed later work programs

50 Operation of sdiv 4

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

Note—

For the requirements to lodge a proposed later work program, see sections 79 (Obligation to lodge proposed later work program), 100

(Minister may add excluded land), 104 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

51 General requirements

(1) The proposed later work program for an authority to prospect may be a work program (activities-based) or work program (outcomes-based).

(2) The proposed later work program must state—

(a) the extent to which the current work program for the authority to prospect has been complied with; and

(b) if there have been any amendments to the authority to prospect or the current work program—

(i) whether the changes have been incorporated in the proposed later work program; and

(ii) any effect the changes have on the proposed later work program; and

(c) the effect of any petroleum discovery on the proposed later work program.

(3) The proposed later work program must include—

(a) maps that show where the exploration under the authority to prospect is proposed to be carried out; and

(b) reasons why the holder of the authority to prospect considers the program to be appropriate; and

(c) any other information prescribed by regulation.

52 Program period

(1) The proposed later work program must state its period.

(2) The period must not be longer than—

Not authorised—indicative only

Not authorised—indicative only

(a) if the term of the rest, or the renewed term, of the authority is less than 6 years—the rest of its term or renewed term; or

(b) if the term of the rest, or the renewed term, of the authority is 6 years or more, the following—

(i) generally—6 years from the start of the period;

(ii) if the Minister approves a longer period—the longer period.

(3) However, the Minister can not approve a period longer than the rest of the term or renewed term of the authority.

53 Implementation of evaluation program for potential commercial area

If, under section 91, an evaluation program is taken to be an additional part of the existing work program for the authority to prospect, the proposed later work program must include work necessary to implement the evaluation program for the period of that program.

54 Later work programs for proposed new authorities

Proposed later work programs for an application under division 8, subdivision 2, to divide an authority to prospect must have a combined effect that is at least the effect of the work program for the original authority.

Subdivision 5 Approval of proposed later work programs

55 Application of sdiv 5

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

55A Modified application of ch 14, pt 1

Chapter 14, part 1 applies in relation to the lodgement by an authority to prospect holder of a proposed later work program as if—

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

(b) the later work program requirements for the proposed program were the requirements under chapter 14, part 1 for making the application.

56 Authority taken to have work program until decision on whether to approve proposed later work program

(1) This section applies until—

(a) if the proposed later work program is approved—the holder is given notice of the approval; or

(b) if approval of the proposed later work program is refused—when the refusal takes effect.

(2) Despite the ending of the program period for the current work program for the authority to prospect—

(a) the authority is taken to have a work program; and

(b) the holder may carry out any authorised activity for the authority.

57 Deciding whether to approve proposed later work program

(1) The Minister may approve or refuse to approve the proposed later work program.

(2) The matters that must be considered in deciding whether to approve the proposed later work program include each of the following—

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Not authorised—indicative only

(a) the work program criteria and capability criteria and any special criteria that applied for deciding the application for the authority to prospect;

(b) the extent to which the current work program has been complied with;

(c) any amendments made to the authority or its current work program, and the reasons for the changes;

(d) any commercial viability report or independent viability assessment for the authority.

(3) Also, if the authority was granted in response to a tender, any other work program proposed by other tenderers for the authority must be taken into account.

(4) However, subsection (3) applies only to the extent the other program includes the period of the proposed plan.

58 Steps after, and taking effect of, decision

(1) On approval of the proposed later work program, the holder must be given notice of the approval.

(2) On refusal to approve the later work program, the holder must be given an information notice about the decision to refuse.

(3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

(4) A refusal does not take effect until the end of the appeal period for the refusal.

Subdivision 6 Amending work programs

59 Restrictions on amending work program

(1) An authority to prospect holder may amend the work program for the authority only if—

(a) an application for approval of the amendment has been made under this subdivision and the amendment has been approved under this subdivision; and

Note—

See also section 91 (Inclusion of evaluation program in work program).

(b) if the amendment is to extend the period of the work program—the requirements under subsection (2) or (3) have been complied with.

(2) For subsection (1)(b), the requirements for an amendment to extend the period of an approved initial work program for an authority to prospect are—

(a) the period of the approved initial work program has not previously been extended; and

(b) either—

(i) the Minister is satisfied the amendment is needed for a reason beyond the holder's control; or

(ii) within 3 months before the making of the application, the authority to prospect has been transferred within the meaning of subsection (4).

(3) For subsection (1)(b), the requirements for an amendment to extend the period of an approved later work program for an authority to prospect are—

(a) the period of the approved later work program, and any earlier approved work program for the authority, has not previously been extended; and

(b) within 3 months before the making of the application, the authority to prospect has been transferred within the meaning of subsection (4).

(4) For subsection (2) and (3), an authority to prospect is transferred only if—

(a) a person (the ***designated person***) became a holder of the authority as a result of—

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Not authorised—indicative only

(i) an application having been made, under the Common Provisions Act, for approval of a transfer of a share in the authority; and

(ii) approval to register the transfer having been given under that Act; and

(b) the share, or proposed share, of the designated person in the authority is at least 50%; and

(c) the designated person is not, under the Corporations Act, section 64B, an entity connected with another person who is a holder of the authority.

(5) An amendment under this section to extend the period of a work program may be granted only if the extended period ends no later than—

(a) 1 year after the current period of the work program; or

(b) 12 years after the authority originally took effect.

60 Applying for approval to amend

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

Note—

For other relevant provisions about applications, see chapter 14, part 1 and section 851AA.

(2) However, the application can not be made less than 20 business days before the end of the period stated in the work program for carrying out work under the program.

(3) Subsection (2) does not apply if the Minister is satisfied the work program needs to be amended for a reason beyond the holder's control.

(4) The application must be accompanied by the fee prescribed under a regulation.

62 Deciding application

(1) If the proposed amendment—

(a) does not relate to the initial work program for the authority to prospect; and

(b) is to substitute the carrying out of an authorised activity (the ***original activity***) with another authorised activity;

the Minister may approve the amendment if satisfied the other activity is at least of an equivalent value to the original activity.

(2) If the application is to extend the period of the work program for the authority, the Minister may approve the amendment only if satisfied—

(a) the requirements under section 59(2) or (3) have been complied with; and

(b) the designated person mentioned in section 59(4) is likely to provide additional financial or technical resources for the authority; and

(c) the work program will be completed within the period of the extension.

Note—

For additional provisions about relinquishment that apply if the period is extended, see sections 65(1)(c) and 78A.

(3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—

(a) not related to—

(i) the applicant's financial or technical resources or ability to manage petroleum exploration; or

(ii) the results of exploration; and

(b) the happening of which is or was beyond the applicant's control; and

(c) that could not have been prevented by a reasonable person in the applicant's position.

Not authorised—indicative only

Not authorised—indicative only

(4) Also, if the amendment is approved under subsection (3), the relinquishment day for the authority may be deferred for a period that relates to a circumstance mentioned in subsection (3).

(5) A deferral under subsection (4) can not be for longer than 12 years after the authority took effect.

(6) If, under this section, an amendment is approved, a condition (an ***additional relinquishment condition***) may be imposed on the authority requiring its holder to relinquish, by a lodged notice, at least a stated percentage of the original notional sub-blocks of the authority on or before a stated day.

63 Steps after, and taking effect of, decision

(1) On approval of the proposed amendment, the holder must be given notice of the approval.

(2) On refusal to approve the proposed amendment, the holder must be given an information notice about the decision to refuse.

(3) An approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

Division 4 Key mandatory conditions for authorities to prospect

Subdivision 1 Preliminary

64 Operation of div 4

This division provides for particular mandatory conditions for authorities to prospect.

Notes—

1 The following provisions also impose mandatory conditions on authorities to prospect—

- division 1
- parts 4 and 10
- sections 181 and 202
- chapter 3, part 4, division 4
- chapter 3A, part 5
- chapter 5.

2 For what is a mandatory condition, see section 20(2).

Subdivision 2 Standard relinquishment condition and related provisions

64A What is the *relinquishment day*

The ***relinquishment day***, for an authority to prospect, is the day before the sixth anniversary of the day the authority took effect.

65 Standard relinquishment condition

(1) It is a condition (the ***relinquishment condition***) of each authority to prospect that its holder must relinquish part of its area, as provided for under this subdivision—

(a) on or before the relinquishment day for the authority; and

(b) if section 68(3) applies—on the day provided for under that subsection; and

(c) if, under division 3, subdivision 6, the period of the work program for the authority has been extended—the day on which the extended period ends.

(2) However, if, under section 62(4), the relinquishment day for the authority (the ***original day***) is deferred for a stated period, for the relinquishment condition, the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period.

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Not authorised—indicative only

(3) A relinquishment required under the relinquishment condition—

(a) must be made by a lodged notice (***relinquishment notice***); and

(b) takes effect on the day after lodgement under paragraph (a).

(4) This section does not prevent the holder from relinquishing, by relinquishment notice, more than the part provided for under this subdivision.

65A Consequence of failure to comply with relinquishment condition

(1) If the holder of an authority to prospect does not comply with the relinquishment condition the holder must be given a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.

(2) If the holder does not comply with the requirement, the authority to prospect is cancelled.

66 Part usually required to be relinquished

(1) This section is subject to sections 66A, 68 and 69.

(2) The holder must relinquish 50% of the original notional sub-blocks of the authority to prospect by the end of the relinquishment day.

(3) The sub-blocks required to be relinquished under this section is the ***usual relinquishment***.

66A Standard relinquishment condition deferred while petroleum lease application is undecided

(1) This section applies if—

(a) the holder of an authority to prospect has made an application for a petroleum lease in relation to an identified area; and

(b) at the end of the relinquishment day, the application has not been decided.

(2) Section 66 does not apply to the authority to prospect in relation to the identified area until—

(a) the petroleum lease is granted; or

(b) 20 business days after the day the application is withdrawn or refused.

(3) In this section—

identified area means the sub-blocks of land identified in a relinquishment notice as the sub-blocks of land to which an authority to prospect will not apply after a reduction required under section 66(2).

66B Sub-blocks that may be counted towards relinquishment

(1) This section applies if, before a relinquishment day, the area of an authority to prospect is reduced under section 101 by the grant of a petroleum lease.

(2) The sub-blocks in the area of the authority to prospect reduced by the grant may be counted as sub-blocks relinquished for the relinquishment condition.

67 Sub-blocks that can not be counted towards relinquishment

(1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—

(a) sub-blocks relinquished under an additional relinquishment condition;

(b) the mere declaration of the sub-blocks as a potential commercial area for the authority;

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Not authorised—indicative only

(c) sub-blocks the subject of an application for a potential commercial area;

(d) sub-blocks relinquished under a penalty relinquishment.

(2) To remove any doubt, it is declared that a potential commercial area can be relinquished and can be counted as an area relinquished for the relinquishment condition.

(3) In this section—

penalty relinquishment means a relinquishment that is—

(a) made under section 78A or under a requirement under section 790(1)(b); and

(b) more than the sub-blocks required to be relinquished under the relinquishment condition.

68 Adjustments for sub-blocks that can not be counted

(1) This section applies for the relinquishment day for an authority to prospect if, after taking away all sub-blocks that, under section 67, can not be counted for the relinquishment condition, the balance of the sub-blocks of the authority to prospect is less than the sub-blocks required to be relinquished under the usual relinquishment.

(2) The relinquishment condition is taken to have been complied with if the authority holder gives a relinquishment notice for all of the balance.

(3) However, if—

(a) a sub-block not counted for the relinquishment condition was the subject of an application for a potential commercial area; and

(b) the result of the application is that it is refused;

the authority holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice for that sub-block.

69 Adjustment for particular potential commercial areas

If the only way to comply with the relinquishment condition is to relinquish all or part of a potential commercial area for the authority, the relinquishment condition is taken to be complied with if all remaining sub-blocks of the original notional sub-blocks of the authority are relinquished.

70 Relinquishment must be by blocks or sub-blocks

(1) A relinquishment under the relinquishment condition—

(a) may be by blocks or sub-blocks; and

(b) must be of at least 1 block.

(2) However, if a block contains an area that, under section 67, can not be counted as a relinquishment, subsection (1)(b) is complied with if all of the rest of the land within the block is relinquished.

71 Ending of authority to prospect if all of its area relinquished

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

Subdivision 2A Mandatory conditions for particular types of testing

71A ATP production testing

(1) Subject to section 72, an authority to prospect holder may carry out testing for petroleum production for a petroleum well (***ATP production testing***) within the area of the authority.

(2) However, it is a condition of the authority to prospect that—

(a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to

Not authorised—indicative only

Not authorised—indicative only

the ATP production testing within 20 business days after the testing starts; and

(b) the testing is carried out after the end date for the testing only with the Minister's approval.

(3) The Minister may, at any time, approve the carrying out after the end date for ATP production testing (the ***original ATP production testing***) of further ATP production testing and the approval is subject to the conditions the Minister considers appropriate.

(4) If the Minister decides not to approve the carrying out of further ATP production testing, the Minister must give the authority to prospect holder an information notice about the decision.

71B ATP storage testing

(1) Subject to section 72, an authority to prospect holder may carry out testing for the storage of petroleum or a prescribed storage gas in a natural underground reservoir (***ATP storage testing***) within the area of the authority.

(2) However, it is a condition of the authority to prospect that—

(a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the ATP storage testing within 20 business days after the testing starts; and

(b) the testing is carried out after the end date for the testing only with the Minister's approval.

(3) Subject to subsection (4), the Minister may, at any time, approve the carrying out after the end date for ATP storage testing (the ***original ATP storage testing***) of further ATP storage testing and the approval is subject to the conditions the Minister considers appropriate.

(4) An approval may not be given under subsection (3) more than 1 day before the end date for the original ATP storage testing.

(5) If the Minister decides not to approve the carrying out of further ATP storage testing, the Minister must give the authority to prospect holder an information notice about the decision.

(6) Despite subsections (1) to (3), an authority to prospect holder must not carry out GHG stream storage.

71C Authority to prospect holder must notify chief executive if testing stops

If an authority to prospect holder stops carrying out any ATP production testing or ATP storage testing within the area of the authority for a continuous period of 14 days or more, the holder must give the chief executive a notice, containing the information prescribed by regulation, in relation to the testing within 20 business days after the testing stops.

Subdivision 3 Other mandatory conditions

72 Restriction on flaring or venting

(1) An authority to prospect holder must not flare or vent petroleum in a gaseous state produced under the authority unless the flaring or venting is authorised under this section.

(2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—

(a) commercially under the authority; or

(b) for an authorised activity for the authority.

(3) Venting the gas is authorised if—

(a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or

(b) flaring it is not technically practicable.

Not authorised—indicative only

Not authorised—indicative only

75 Petroleum royalty and annual rent

(1) An authority to prospect holder must pay the State—

(a) petroleum royalty as required under chapter 6; and

(b) the annual rent, as prescribed under a regulation.

(2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

76 Civil penalty for nonpayment of annual rent

(1) If an authority to prospect holder does not pay the annual rent as required under section 75, the holder must also pay the State a civil penalty.

(2) The amount of the penalty is 15% of the rent.

(3) The penalty—

(a) must be paid on the day after the last day for payment of the rent; and

(b) is still payable even if the holder later pays the rent.

77 Requirement to have work program

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

Notes—

1 The only work program for an authority to prospect is its current initial or later work program, as approved under division 3.

2 For the requirements to lodge a proposed later work program see sections 79, 100, 104, 372 and 790.

3 For approval of proposed later work programs see division 3, subdivision 5.

78 Compliance with work program

The holder of an authority to prospect must comply with the work program for the authority.

78A Penalty relinquishment if work program not completed within extended period

(1) If—

(a) under division 3, subdivision 6, the period of the work program for an authority to prospect has been extended; and

(b) the work program is not completed on or before the day on which the extended period ends;

its holder must relinquish a part of the original notional sub-blocks of the authority that the Minister is satisfied corresponds to the amount of the work under the work program that was not completed.

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

Note—

For other relevant provisions about giving a document to the chief executive, see section 851AA.

(3) If the holder does not comply with subsection (2), the Minister may take action under section 790(1)(b).

79 Obligation to lodge proposed later work program

(1) This section imposes an obligation on an authority to prospect holder to lodge a proposed later work program for the authority.

Notes—

1 For approval of the proposed program, see division 3, subdivision 5.

2 If the holder wishes to renew the authority, a proposed later work program must be included in the renewal application. See section 82(1).

(2) The obligation is complied with only if the proposed later work program—

(a) is lodged; and

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Not authorised—indicative only

(b) complies with the later work program requirements; and

(c) is accompanied by the relevant fee.

(3) A proposed later work program must be lodged at least 40, but no more than 100, business days before the end of the program period for the current work program for the authority (the ***current work program period***).

(4) However, if before the end of the current work program period, a decision is made not to approve a proposed later work program lodged under subsection (3), the holder may, within the eligible balance of the period, lodge another proposed later work program.

(5) If the holder does not lodge any proposed later work program before the end of the current work program period or if subsection (4) applies and the holder does not lodge another proposed later work program within the eligible balance of the current work program period—

(a) the holder must be given a notice requiring the holder to lodge a proposed later work program for the authority within 40 business days after the giving of the notice; and

(b) the holder must comply with the requirement.

(6) In this section—

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

relevant fee, for the lodgement of the proposed program, means—

(a) if the proposed program is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or

(b) if the proposed program is lodged after the time required under subsection (3)—

(i) if it is lodged under subsection (4)—nil; or

(ii) if it is not lodged under subsection (4)—an amount that is 10 times the prescribed fee.

80 Consequence of failure to comply with notice to lodge proposed later work program

(1) If an authority to prospect holder does not comply with a requirement under section 79(5)(a), the authority is cancelled.

(2) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (1).

80A Power to impose or amend condition if changed holder of authority to prospect

(1) This section applies if 1 of the following changes happens—

(a) an entity starts or stops controlling the holder of an authority to prospect under the Corporations Act, section 50AA;

(b) the holder of an authority to prospect starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.

(2) The Minister may consider whether, after the change, the holder of the authority to prospect has the financial and technical resources to comply with the conditions of the authority to prospect.

(3) If the Minister considers the holder of the authority to prospect may not have the financial and technical resources to comply with conditions of the authority to prospect, the Minister may impose another condition on, or amend a condition of, the authority to prospect.

(4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of

Not authorised—indicative only

Not authorised—indicative only

the authority to prospect to give the Minister information or a document about whether or not the change has happened.

(5) Before deciding to impose another condition on, or amend a condition of, the authority to prospect under subsection (3), the Minister may require the holder of the authority to prospect to give the Minister information or a document the Minister requires to make the decision.

(6) A requirement under subsection (4) or (5) must—

(a) be made by notice given to the holder; and

(b) state a period of at least 10 business days within which the holder must comply with the requirement.

(7) Before deciding to impose another condition on, or amend a condition of, the authority to prospect under subsection (3), the Minister must give the holder of the authority a notice stating—

(a) the proposed decision; and

(b) the reasons for the proposed decision; and

(c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.

(8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the authority to prospect.

(9) In deciding whether to impose another condition on, or amend a condition of, the authority to prospect under subsection (3), the Minister—

(a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and

(b) may consider any other matter the Minister considers relevant.

(10) If the Minister decides to impose another condition on, or amend a condition of, the authority to prospect under subsection (3), the Minister must, as soon as practicable after

making the decision, give the holder a notice stating the decision and the reasons for the decision.

Division 5 Renewals

81 Conditions for renewal application

(1) An authority to prospect holder may apply to renew the authority only if none of the following is outstanding—

(a) annual rent for the authority;

(b) a civil penalty under section 76 for nonpayment of annual rent;

(c) interest payable under section 588 on annual rent or a civil penalty;

(d) a royalty-related amount payable by the holder;

(e) security required for the authority, as required under section 488.

(2) Also, the application can not be made—

(a) more than 60 business days before the end of the term of the authority; or

(b) after the authority has ended.

82 Requirements for making application

(1) The application must—

(a) be in the approved form; and

(b) state whether or not the work program for the authority to prospect has been complied with; and

(c) if the work program has not been complied with—state details of, and the reasons for, each noncompliance; and

(d) include a proposed later work program for the renewed authority; and

Not authorised—indicative only

Not authorised—indicative only

(e) address the capability criteria; and

(f) include information about the matters that, under sections 84 and 86, must or may be considered in deciding the application; and

(g) state whether or not the applicant has complied with chapter 5, part 7, for reports required to be lodged in relation to the authority; and

(h) be accompanied by—

(i) the application fee prescribed under a regulation; and

(ii) if the application is made less than 20 business days before end of the term of the authority—an amount that is 10 times the application fee.

(2) The proposed work program must comply with the later work program requirements.

83 Continuing effect of authority for renewal application

(1) This section applies if before the application is decided the term of the authority to prospect ends.

(2) Despite the ending of the term, the authority continues in force until the earlier of the following to happen—

(a) the start of any renewed term of the authority;

(b) a refusal of the application takes effect;

(c) the application is withdrawn;

(d) the authority is cancelled under this Act.

(3) Also, if the applicant has applied for a declaration of a potential commercial area for the authority, the authority continues in force until the declaration application is decided, but only in relation to the area of the proposed potential commercial area applied for.

(4) If the authority is continued in force under subsection (3), the evaluation program included in the declaration application is taken to be the work program for the authority.

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

84 Deciding application

(1) The Minister may grant or refuse the renewal.

(2) However—

(a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later work program for the renewed authority to prospect; and

(b) the renewal can not be granted unless—

(i) the proposed program has been approved; and

(ii) the applicant satisfies the capability criteria; and

(iii) the Minister is satisfied the applicant—

(A) continues to satisfy any special criteria that applied for deciding the application for the authority to prospect being renewed; and

Note—

See sections 35(2)(h)(iii) and 43.

(B) has substantially complied with the authority to prospect being renewed; and

(iv) a relevant environmental authority for the renewed authority to prospect has been issued.

Note—

If the application relates to acquired land, see also section 30AC.

(3) Also, if the applicant has been given a notice under section 96 to apply for a petroleum lease, the application must not be decided until the issue of whether a petroleum lease will be granted is decided.

Not authorised—indicative only

Not authorised—indicative only

(4) Subsection (3) does not limit the power under section 97 to take a proposed action as stated in the notice.

(5) Subsection (6) applies if, after considering the proposed later work program mentioned in subsection (2)(a), the Minister considers a work program of another type mentioned in section 45(1) is more appropriate for the exploration of the area of the permit, if renewed.

(6) Before deciding the application, the Minister may, by written notice given to the applicant, require the applicant to give the Minister, within the reasonable period stated in the notice, a proposed work program of another type mentioned in section 45(1) for the further term of the permit, if renewed.

(7) The Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—

(a) pay the annual rent for the first year of the renewed authority;

(b) give, under section 488, security for the renewed authority.

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

85 Provisions and term of renewed authority

(1) Subject to this section, section 42 applies to the renewed authority to prospect as if it were an authority to prospect granted under division 2.

(2) To remove any doubt, it is declared that the conditions of the renewed authority may be different from the conditions or other provisions of the authority to prospect being renewed.

(3) The area of the renewed authority must not be more than the area of the authority to prospect being renewed immediately before the renewed authority is to take effect.

Note—

See, however, section 30AC(3) in relation to acquired land that was previously in the area of the authority to prospect being renewed.

(4) If the renewed authority is decided before the end of the term of the authority to prospect being renewed as stated in that authority (the ***previous term***), the term of the renewed authority is taken to start from the end of the previous term.

(5) If the renewed authority is decided after the previous term, the term of the renewed authority starts immediately after the end of the previous term, but—

(a) the conditions of the renewed authority do not start until the authority holder is given notice of them; and

(b) until the notice is given, the conditions of the authority to prospect being renewed apply to the renewed authority as if they were its conditions.

(6) The term of the renewed authority must not end more than 12 years from when the authority to prospect originally took effect.

(7) However, if any part of the area of the renewed authority is a potential commercial area, the term of the renewed authority for that part may be for a longer period that—

(a) ends no later than when the declaration ends; and

(b) is no more than the last term of the authority being renewed.

(8) To remove any doubt, it is declared that subsection (7)(b) does not prevent a renewal of the renewed authority.

86 Criteria for decisions

The matters that must be considered in deciding whether to grant the renewal or deciding the provisions of the renewed authority include—

(a) the work program criteria; and

Not authorised—indicative only

Not authorised—indicative only

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

87 Information notice about refusal

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

88 When refusal takes effect

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

Division 6 Potential commercial areas

89 Applying for potential commercial area

(1) The holder of an authority to prospect may apply for a declaration by the Minister that all or a stated part of the area of the authority is a potential commercial area for the authority.

(2) The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

(3) The application may be made—

(a) for more than 1 part of the area of the authority to prospect; and

(b) even if another part of the area of the authority is already a potential commercial area.

(4) However, each part to which the application relates must be part of the same authority to prospect.

(5) The application must include—

(a) a report for, or that includes, the proposed potential commercial area that—

(i) meets the requirements under section 231 for a commercial viability report; and

(ii) is still relevant to the circumstances of the proposed potential commercial area; and

(b) an evaluation program for—

(i) potential petroleum production or storage in the proposed potential commercial area; and

(ii) market opportunities for potential production or storage; and

(c) information about the compliance or noncompliance with the conditions of the authority.

(6) However, subsection (5)(a) does not apply if—

(a) a commercial viability report or an independent viability assessment relates to, or includes the proposed potential commercial area; and

(b) the report or assessment is still relevant to the circumstances of the proposed potential commercial area.

90 Deciding potential commercial area application

(1) The Minister may declare an area the subject of the application to be a potential commercial area only if satisfied—

(a) the area is no more than is needed to cover the maximum extent of a natural underground reservoir identified in the report; and

(b) petroleum production or storage in the area to be declared, is not, and will not soon be, commercially viable, but is likely to become viable within 15 years.

Not authorised—indicative only

Not authorised—indicative only

Note—

See section 85.

(2) Also, the area declared must form a single parcel of land.

(3) In deciding the application, regard must be had to whether the conditions of the relevant authority to prospect have been substantially complied with.

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

(5) To remove any doubt, it is declared that the declaration may be made even if the authority to prospect has been continued in force under section 83 or 119.

91 Inclusion of evaluation program in work program

(1) If the declaration is made, the evaluation program that accompanied the application is taken to be an additional part of the existing work program for the authority to prospect.

Note—

For requirements about the evaluation program in later work programs, see section 53.

(2) If there is an inconsistency between the evaluation program and the rest of the work program, the evaluation program prevails to the extent of the inconsistency.

92 Term of declaration

(1) Subject to section 93, a declaration of a potential commercial area continues in force for—

(a) 15 years from the making of the declaration; or

(b) if the declaration states a shorter period during which it is to be in force—the shorter period.

(2) The matters that must be considered in deciding the shorter period include—

(a) when any petroleum discovery was made; and

(b) any commercial viability report or independent viability assessment for, or that includes, the proposed potential commercial area.

(3) Despite subsection (1), the declaration ceases if the authority to prospect holder lodges a notice that the holder no longer wishes the area to be a potential commercial area.

Note—

See also section 102 (Effect of ending of declaration of potential commercial area).

93 Extension of term of declaration

(1) If—

(a) a declaration of a potential commercial area is in force for the area of an authority to prospect; and

(b) under the Mineral Resources Act, chapter 8, part 2 or 3, a coal or oil shale mining lease has been granted over the area;

the Minister may, on the application of the authority to prospect holder, extend the term of the declaration for a period that ends no later than 2 years after the mining lease, or any renewal of the mining lease, ends.

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

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

94 Potential commercial area still part of authority

A declaration of a potential commercial area does not change the land the subject of the declaration from being—

(a) part of the area of the authority to prospect the subject of the application for the declaration; and

(b) subject to the authority.

Not authorised—indicative only

Not authorised—indicative only

Division 7 Provisions to facilitate transition to petroleum lease

95 Application of div 7

This division applies if the Minister reasonably considers the holder of an authority to prospect should apply for a petroleum lease for all or part of the area of the authority because—

(a) petroleum production in the area—

(i) is currently commercially viable; or

(ii) is likely to become commercially viable within 2 years; or

(b) a natural underground reservoir in the area is, or is likely to have, commercial storage potential.

96 Ministerial direction to apply for petroleum lease

(1) The Minister may give the authority holder a notice stating each of the following—

(a) that the Minister proposes to do either of the following, (the ***proposed action***) unless the holder has made an appropriate lease application—

(i) excise a stated area from the area of the authority;

(ii) cancel the authority;

(b) the grounds for the proposed action;

(c) the facts and circumstances forming the basis for the grounds;

(d) that the holder may, within a stated period, lodge submissions about why the holder should not make a petroleum lease application for the stated area.

(2) The stated period must be reasonable, but must not be more than 6 months.

(3) In this section—

appropriate lease application means a petroleum lease application for—

(a) the stated area or an area that is substantially the same as the stated area; or

(b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a petroleum lease in relation to the stated area.

97 Taking proposed action

(1) Proposed action under section 96 may be taken only if—

(a) the stated period under section 96 has ended; and

(b) either—

(i) the holder has not made an appropriate petroleum lease application under section 96; or

(ii) any appropriate lease application under section 96 made by the holder has been refused; and

(c) the Minister has considered any submissions lodged by the holder within the period.

(2) The decision does not take effect until the holder is given an information notice about the decision.

(3) A refusal of the application takes effect at end of the appeal period for the decision to refuse.

Not authorised—indicative only

Not authorised—indicative only

Division 8 Miscellaneous provisions

Subdivision 1 Area provisions

98 Area of authority to prospect

(1) This section provides for the area of an authority to prospect.

(2) The area does not include excluded land for the authority.

Note—

See also section 30AB(3) if land in the authority to prospect's area is taken under a resumption law.

(3) Unless the Minister otherwise decides, the area must form a single parcel of land.

(4) The area must not include any of the following (***unavailable land***)—

(a) land in the area of another petroleum tenure;

(b) excluded land for another petroleum tenure;

(c) land in the area of a 1923 Act petroleum tenure;

(d) excluded land for a 1923 Act petroleum tenure;

(e) land that a regulation prescribes as land over which an authority to prospect can not be granted.

(5) To remove any doubt, it is declared that if land within the original notional sub-blocks of the authority ceases to be unavailable land, the cessation itself does not cause the land to be within the area of the authority.

(6) The area may include a part of a block only if the part is all areas within the block that are left after taking away all unavailable land within the block (a ***residual block***).

Note—

See also section 30AB(3) if land in the authority to prospect's area is taken under a resumption law.

(7) The area must be no more than 100 blocks or residual blocks, in any combination.

99 Minister's power to decide excluded land

(1) The Minister may decide excluded land for an authority to prospect or proposed authority to prospect.

(2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—

(a) grant or renew the authority; or

(b) approve any later work program for the authority.

(3) However, excluded land—

(a) must be within the original notional sub-blocks of the authority; and

(b) can not be a whole block.

(4) For subsection (3)(a), if the register—

(a) states that the authority's area includes land within a block; but

(b) does not include or exclude any particular sub-block within that block;

the reference to the block in the register is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.

(5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.

(6) Land ceases to be excluded land for an authority to prospect if—

(a) the block in which the land is located is relinquished or, for any other reason, ceases to be in the area of the authority; or

Not authorised—indicative only

Not authorised—indicative only

(b) a petroleum lease is granted over any of the area of the authority and the land is excluded land for the lease.

100 Minister may add excluded land

(1) The Minister may amend an authority to prospect by adding excluded land for the authority to its area only if—

(a) the authority as amended complies with section 98; and

(b) the authority holder consents.

(2) If land mentioned in subsection (1) is added to the area of the authority the land ceases to be excluded land for the authority.

(3) The Minister may amend the provisions of the authority in a way that reflects the inclusion of the excluded land.

(4) Also, the Minister may give the authority holder a notice—

(a) withdrawing, from a stated day, the approval of the work program for the authority; and

(b) directing the holder to lodge a proposed later work program for the authority that—

(i) complies with the later work program requirements; and

(ii) changes the work program for the authority to reflect the inclusion of the excluded land.

(5) The amended provisions of the authority or the proposed later work program must not be—

(a) inconsistent with the mandatory conditions for authorities to prospect; or

(b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority.

101 Area of authority to prospect reduced on grant of petroleum lease

(1) Land ceases to be included in the area of an authority to prospect if a petroleum lease is granted over the land.

(2) If a petroleum lease is granted over all of the area of an authority to prospect, the authority ends.

Note—

See however chapter 3, part 4, division 3 (Exceptions to particular area provisions).

102 Effect of ending of declaration of potential commercial area

(1) This section applies if all or part of the area of an authority to prospect is a potential commercial area and the declaration of the potential commercial area ends more than 12 years after the authority originally took effect.

(2) If the declaration applied to a part of the area of the authority, the part ceases to be included in its area.

(3) If the declaration applies to all of the area of the authority, the authority ends.

Note—

If the declaration ends less than 12 years after the authority originally took effect, see section 94.

Subdivision 2 Dividing authorities to prospect

103 Applying to divide

(1) The holder of an authority to prospect (the ***original authority***) may apply to divide it into 2 or more authorities to prospect (the ***new authorities***).

(2) However, the holder may apply for a new authority to be granted to another person only if the other person—

Not authorised—indicative only

Not authorised—indicative only

(a) agrees to the proposed grant; and

(b) is an eligible person.

(3) Despite subsections (1) and (2), the holder can not make the application if any of the following is outstanding—

(a) annual rent for the original authority;

(b) a civil penalty under section 76 for nonpayment of annual rent;

(c) interest payable under section 588 on annual rent or a civil penalty;

(d) a royalty-related amount payable by the holder;

(e) security for the original authority, as required under section 488.

104 Requirements for making application

The application must—

(a) be in the approved form; and

(b) state whether or not the work program for the original authority to prospect has been complied with; and

(c) if the work program for the original authority has not been complied with—state details of, and the reasons for, each noncompliance; and

(d) include a proposed later work program for each proposed new authority; and

Note—

For an additional requirement for the proposed work programs, see section 54.

(e) address the capability criteria for each proposed holder of the new authorities; and

(f) state whether or not the holder has complied with chapter 5, part 7, for reports required to be lodged in relation to the original authority; and

(g) be accompanied by the fee prescribed under a regulation.

105 Deciding application

(1) The Minister may make or refuse to make the division.

(2) However—

(a) before deciding to make the division, the Minister must decide whether to approve the proposed later work programs for the new authorities; and

(b) the division can not be granted unless—

(i) the proposed programs have been approved; and

(ii) each proposed holder of the new authorities satisfies the capability criteria; and

(iii) the Minister is satisfied the applicant continues to satisfy any special criteria that applied for deciding the application for the original authority; and

Note—

See sections 35(2)(h)(iii) and 43.

(iv) the Minister is satisfied the applicant has substantially complied with the original authority.

(3) The matters that must be considered in making the division include the work program for the original authority, the proposed later work programs and the capability criteria.

(4) The Minister may, as a condition of making the division, require the applicant to, under section 488, give security or additional security for all or any of the new authorities within a stated reasonable period.

(5) If the applicant does not comply with the requirement, the division may be refused.

Not authorised—indicative only

Not authorised—indicative only

106 Provisions of new authorities

(1) Subject to this section, section 42 applies for the provisions of a new authority as if it were an authority to prospect granted under division 2.

(2) However—

(a) the term of each new authority must not end later than the end of the term of the original authority; and

(b) the new authorities must have the same relinquishment days as the original authority.

(3) For the relinquishment condition for the new authorities—

(a) the new authorities are taken to have originally taken effect when the original authority originally took effect; and

(b) the original notional sub-blocks of the original authority are divided rateably between the new authorities; and

(c) for working out previous relinquishments that are counted for the relinquishment condition for each new authority, the relinquishments previously counted for the relinquishment condition for the original authority are divided rateably between the new authorities.

107 Steps after deciding application

(1) After the provisions of the new authorities are decided, the applicant and anyone else who will be a holder of any new authority, must be given notice of the relevant provisions and work program.

Note—

For noncompliance action started, or that could have been taken, against the original authority holder, see section 792.

(2) On refusal to make the division, the applicant must be given notice of the refusal.

Subdivision 2A Amalgamating potential commercial areas

107AA Applying to amalgamate

(1) The holder of an authority to prospect may apply to the Minister to amalgamate 2 or more potential commercial areas for the authority to prospect into a single potential commercial area for the authority to prospect (the ***amalgamated potential commercial area***).

(2) The holder can not make an application under subsection (1) if—

(a) the holder has not complied with a provision of this Act; or

(b) any of the following amounts is outstanding in relation to the authority to prospect—

(i) annual rent;

(ii) a civil penalty under section 76 for non-payment of annual rent;

(iii) interest payable under section 588 on annual rent or a civil penalty;

(iv) a royalty-related amount payable by the holder;

(v) security required under section 488.

107AB Requirements for making application

The application must—

(a) be in the approved form; and

(b) include a report for, or that includes, the proposed amalgamated potential commercial area that—

(i) meets the requirements under section 231 for a commercial viability report; and

Not authorised—indicative only

Not authorised—indicative only

(ii) is still relevant to the circumstances of the proposed amalgamated potential commercial area; and

(c) include a proposed evaluation program for—

(i) potential petroleum production or storage in the proposed amalgamated potential commercial area; and

(ii) market opportunities for the potential petroleum production or storage mentioned in subparagraph (i); and

(d) be accompanied by the fee prescribed by regulation.

107AC Deciding application

(1) The Minister may declare the amalgamated potential commercial area for the authority to prospect only if satisfied the area is no more than is needed to cover the maximum extent of a natural underground reservoir identified in the report mentioned in section 107AB(b).

(2) Also—

(a) before deciding to declare the amalgamated potential commercial area for the authority to prospect, the Minister must decide whether to approve the proposed evaluation program for the amalgamated potential commercial area; and

(b) the amalgamated potential commercial area can not be declared unless—

(i) the proposed evaluation program for the amalgamated potential commercial area has been approved; and

(ii) the Minister is satisfied the holder of the authority to prospect—

(A) continues to satisfy the capability criteria that applied in relation to the authority; and

(B) continues to satisfy any special criteria that applied in relation to the authority; and

(C) has substantially complied with the conditions of the authority.

(3) The Minister may, as a condition of declaring the amalgamated potential commercial area for the authority to prospect, require the applicant to give security or additional security for the authority to prospect, under section 488, within a stated reasonable period.

(4) If the applicant does not comply with a requirement under subsection (3), the application may be refused.

107AD Term of declaration

(1) A declaration of an amalgamated potential commercial area for an authority to prospect continues in force for—

(a) 15 years from the making of the latest of the declarations of the potential commercial areas for the authorities to prospect that have been amalgamated; or

(b) the shorter period decided by the Minister when making the declaration and stated in the notice given under section 107AE(1).

(2) The matters that must be considered in deciding the shorter period include—

(a) when any petroleum discovery was made; and

(b) the report and proposed evaluation program mentioned in section 107AB(b) and (c) that accompanied the application for amalgamation or an independent viability assessment for, or that includes, the amalgamated potential commercial area.

Not authorised—indicative only

Not authorised—indicative only

107AE Steps after deciding application

(1) If the Minister decides to declare the amalgamated potential commercial area for the authority to prospect, the Minister must give the holder of the authority to prospect notice of—

(a) the term of the declaration; and

(b) the evaluation program approved for the amalgamated potential commercial area.

(2) If the Minister decides to refuse to declare the amalgamated potential commercial area for the authority to prospect, the Minister must give the applicant an information notice for the decision.

Subdivision 3 Special amendment of relinquishment requirements or work program

107A Application for special amendment

(1) The holder of an authority to prospect may apply to the Minister to approve an amendment (a ***special amendment***) of either or both of the following—

(a) the operation of the relinquishment requirements for the authority to prospect;

(b) the work program for the authority to prospect.

(2) However, the holder may apply for the special amendment only if the special amendment is necessary because of—

(a) an exceptional event affecting the authority; or

(b) circumstances arising from the authority forming part of an exploration project.

(3) The application must state the event mentioned in subsection (2)(a), or the circumstances mentioned in subsection (2)(b), and how the event or circumstances justify the special amendment.

(4) The application must be accompanied by the prescribed fee.

107B Special amendment of relinquishment requirements

(1) If the Minister approves a special amendment of the operation of the relinquishment requirements for an authority to prospect, the relinquishment requirements have effect subject to the special amendment.

(2) In approving the special amendment, the Minister may also approve a change of the conditions of the authority to prospect.

(3) On the day the approval takes effect, the change of the conditions also takes effect.

107C Special amendment of work program

(1) If the Minister approves a special amendment of the work program for an authority to prospect, the work program as amended has effect as if the amendment had been approved under division 3, subdivision 6.

(2) In approving the special amendment, the Minister may also approve a change of the conditions of the authority to prospect.

(3) On the day the approval takes effect, the change of the conditions also takes effect.

107D Approval of special amendment

(1) The Minister may approve a special amendment under this subdivision if the Minister considers the amendment is justified by an event mentioned in section 107A(2)(a) or circumstances mentioned in section 107A(2)(b).

(2) Without limiting the matters the Minister may have regard to, the Minister may have regard to—

Not authorised—indicative only

Not authorised—indicative only

(a) the optimisation of the development and use of the State's petroleum resources; and

(b) whether, in the circumstances, the relinquishment requirements or the work program amendment provisions allow for sufficient flexibility to achieve the optimisation mentioned in paragraph (a).

Part 2 Petroleum leases

Division 1 Key authorised activities

Subdivision 1 General provisions

108 Operation of sdiv 1

(1) This subdivision provides for the key authorised activities for a petroleum lease.

Notes—

1 For other authorised activities, see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2.

2 The carrying out of particular activities on particular land in a petroleum lease's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the authorised activities is subject to—

(a) section 6; and

(b) subdivision 2; and

(c) chapter 3A, part 5; and

(d) chapter 3, part 5, division 1; and

(e) chapters 5 and 9; and

(f) the mandatory and other conditions of the lease; and

(g) any exclusion or restriction provided for in the lease on the carrying out of the activities; and

(h) any other relevant Act or law.

109 Exploration, production and storage activities

(1) The lease holder may carry out the following activities in the area of the lease—

(a) exploring for petroleum;

(b) subject to sections 150A and 150C—

(i) testing for petroleum production; and

(ii) evaluating the feasibility of petroleum production; and

(iii) testing natural underground reservoirs for storage of petroleum or a prescribed storage gas;

(c) petroleum production;

(d) evaluating, developing and using natural underground reservoirs for petroleum storage or to store prescribed storage gases, including, for example, to store petroleum or prescribed storage gases for others;

(e) plugging and abandoning, or otherwise remediating, a bore or well the lease holder reasonably believes is a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

(2) However, the holder must not carry out any of the following—

(a) extraction or production of a gasification or retorting product from coal or oil shale by a chemical or thermal process;

(b) exploration for coal or oil shale to carry out extraction or production mentioned in paragraph (a);

Not authorised—indicative only

Not authorised—indicative only

(c) GHG stream storage.

(3) The rights under subsection (1) may be exercised only by or for the holder.

Note—

See also section 800 (Restriction on petroleum tenure activities).

For who may exercise the rights for the holder, see section 563.

(4) The right to store petroleum or prescribed storage gases for others is subject to part 6.

110 Construction and operation of petroleum pipelines

(1) The lease holder may construct and operate petroleum pipelines in the area of the lease.

(2) However, if a petroleum pipeline extends beyond the area of the lease, subsection (1) applies only if the pipeline is completely within—

(a) the area of the lease; and

(b) the area of 1 or more other petroleum leases that—

(i) are also held by the holder of the lease; or

(ii) are the subject of a coordination arrangement between the holder of the lease and the holder of each other lease.

(3) In this section—

petroleum pipeline means a pipeline as defined under section 16 other than a pipeline for transporting a GHG stream.

Notes—

1 See also the GHG storage Act, section 386 (Restriction on GHG storage activities).

2 For the granting of licences under this Act for pipelines for GHG streams, see sections 16, 394, 400 and 402.

111 Petroleum processing

(1) The lease holder may—

(a) carry out the processing of petroleum in the area of the lease; and

(b) construct and operate a facility for the processing, storage or transport of petroleum in the area of the lease.

(2) Subsection (1) applies for petroleum produced in or outside the area.

(3) In this section—

processing of petroleum—

(a) includes the separation of LPG only if the separation is incidental to other petroleum processing; and

(b) does not include refining petroleum.

111A Processing produced water

(1) The lease holder may do each of the following in the area of the lease—

(a) carry out the processing of produced water;

(b) construct and operate a facility for the processing and storage of produced water.

(2) Subsection (1) applies for produced water—

(a) produced in or outside the area of the lease; and

(b) whether or not it is produced by the lease holder.

(3) In this section—

processing of produced water includes—

(a) treating produced water; and

(b) applying mechanical or chemical processes, or energy, to produced water.

Not authorised—indicative only

Not authorised—indicative only

112 Incidental activities

(1) The lease holder may carry out an activity (an ***incidental activity***) in the area of the lease if carrying out the activity is reasonably necessary for, or incidental to—

(a) another authorised activity for the lease; or

(b) an authorised activity for another petroleum lease or an authority to prospect.

Examples of incidental activities—

1 constructing or operating plant or works, including, for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks

2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps

3 removing vegetation for, or for the safety of, exploration or testing under section 150A(1) or 150C(1)

Note—

See also part 10, section 239, chapter 5 and section 20(2).

(2) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

Subdivision 2 Provisions for coextensive natural underground reservoirs

113 Application of sdiv 2

This subdivision applies if a natural underground reservoir in the area of a petroleum lease extends to—

(a) the area of an adjacent petroleum lease or coal or oil shale mining lease (an ***adjacent lease***); or

(b) if a person has applied for a petroleum lease, coal mining lease or oil shale mining lease that will, if granted, be an adjacent lease—the area of the proposed lease.

Note—

See also section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs) of the 1923 Act.

114 Coordination arrangement may be made about mining or production from reservoir

The petroleum lease holder and an adjacent lease holder, or proposed adjacent lease holder, may make a coordination arrangement that provides for the petroleum that can, under the Mineral Resources Act or this Act, be produced from the reservoir from within the area of the petroleum lease and the adjacent lease, or proposed adjacent lease.

Notes—

1 See the Mineral Resources Act, section 318CM (Limited entitlement to mine coal seam gas).

2 For the making of coordination arrangements, see part 8.

115 Restriction on carrying out particular authorised activities

(1) The petroleum lease holder must not carry out a relevant activity for an adjacent lease or proposed adjacent lease unless—

(a) the adjacent lease holder, or the proposed adjacent lease holder, has consented in writing to the carrying out of the activity; or

(b) the activity is carried out under—

(i) a coordination arrangement mentioned in section 114; or

(ii) a decision of the Land Court under section 116.

Not authorised—indicative only

Not authorised—indicative only

(2) However, if the adjacent lease was granted after the petroleum lease was granted and, when the adjacent lease was granted, the petroleum lease holder was carrying out the relevant activity, subsection (1) does not apply to the petroleum lease holder until the later of the following—

(a) 6 months after granting of the adjacent lease;

(b) if within the 6 months the petroleum lease holder applies to the Land Court under section 116—when the Land Court decides the application.

(3) In this section—

relevant activity, for an adjacent lease or proposed adjacent lease, means—

(a) the production, under the petroleum lease, of petroleum that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or the proposed adjacent lease; or

(b) another authorised activity under the petroleum lease that physically adversely affects, or may physically adversely affect, the carrying out of authorised activities under an adjacent lease or the proposed adjacent lease.

116 Dispute resolution by Land Court

(1) This section applies if—

(a) an adjacent lease holder, or the proposed adjacent lease holder, has not consented in writing to the carrying out of a relevant activity under section 115; and

(b) the petroleum lease holder and the adjacent lease holder or proposed adjacent lease holder (the ***parties***) have not made a coordination arrangement mentioned in section 114.

(2) Either party may apply to the Land Court for it to decide—

(a) the amount or proportion of petroleum mentioned in section 114 that, when produced, is owned by each party; and

(b) how the parties are to bear the costs of the production; and

(c) how the production is to be coordinated or monitored; and

Example for paragraph (c)—

fixing a minimum distance from the boundary between the petroleum lease and the adjacent lease for petroleum production from the reservoir under the petroleum lease

(d) remediation requirements, as prescribed under a regulation, in relation to the matters mentioned in section 115(3), definition *relevant activity*, paragraph (b).

(3) If the adjacent lease was granted after the petroleum lease was granted, the decision may apply from the grant of the adjacent lease.

(4) In making the decision, the Land Court—

(a) must consider whether the safety of production activities on any adjoining mining or petroleum lease would be compromised; and

(b) must attempt to optimise petroleum production under the petroleum lease and mining or production under the adjacent lease in a way that maximises the benefit for all Queenslanders; and

(c) may make the decision without having regard to the issue of who would have, under another Act or law, otherwise owned the petroleum.

(5) In considering the benefit to all Queenslanders, the Land Court must have regard to the public interest.

Not authorised—indicative only

Not authorised—indicative only

Division 2 Transition from authority to prospect to petroleum lease

Subdivision 1 Applying for petroleum lease

117 Who may apply

(1) An authority to prospect holder or a 1923 Act ATP holder may apply for a petroleum lease over all or part of the area of the authority.

Note—

For inclusion of acquired land that was previously in the authority to prospect's or 1923 Act ATP's area, see section 30AC(3).

(2) Also, a person other than the holder may apply for the lease—

(a) jointly with the holder; or

(b) with the holder's consent.

(3) An application under this section is an ***ATP-related application***.

118 Requirements for making ATP-related application

An ATP-related application must—

(a) be in the approved form; and

(b) address the capability criteria; and

(c) include each of the following—

(i) a statement about why the size of the proposed area of the proposed petroleum lease is appropriate for authorised activities under the lease;

(ii) information about the matter under section 121(2) on which the applicant seeks to rely to establish the requirements for the grant;

(iii) a proposed development plan that complies with the initial development plan requirements; and

(d) include information to satisfy the requirements for grant mentioned in section 121; and

(e) if the proposed authorised activities relate to petroleum production—include a statement by a suitably qualified person that the proposed area contains commercial quantities of petroleum; and

(f) be accompanied by the fee prescribed under a regulation.

118A Rejection of ATP-related application if applicant disqualified

(1) The Minister must reject an ATP-related application for a petroleum lease if the Minister decides the applicant is disqualified under the Common Provisions Act, chapter 7 from being granted the petroleum lease.

(2) On rejection of the application, the Minister must give the applicant a notice about the decision.

119 Continuing effect of authority to prospect for ATP-related application

(1) This section applies if, other than for subsection (2), the relevant authority to prospect would, other than by cancellation under this Act, end before the ATP-related application is decided.

(2) The authority continues in force in relation to the area the subject of the application until the earlier of the following to happen—

(a) the start of the term of the petroleum lease;

(b) a refusal of the ATP-related application takes effect;

(c) the application is withdrawn.

Not authorised—indicative only

Not authorised—indicative only

(3) Despite any ending of the program period for the current work program for the authority—

(a) the authority is taken to have a work program; and

(b) the holder may carry out any authorised activity for the authority.

Subdivision 2 Deciding ATP-related applications

120 Right to grant if requirements for grant met

(1) Subject to sections 122 and 123A, the Minister must grant the petroleum lease if the Minister is satisfied the requirements mentioned in section 121 (the ***requirements for grant***) have been complied with.

Note—

If the application relates to acquired land that was previously in the relevant authority to prospect's or 1923 Act ATP's area, see also section 30AC.

(2) The lease must be refused if the Minister is not satisfied any requirement for grant, other than the requirement mentioned section 121(1)(c), has been complied with.

(3) If the Minister is satisfied the requirements for grant, other than the requirement mentioned section 121(1)(c), have been complied with, the Minister may grant the lease.

121 Requirements for grant

(1) The requirements for grant are each of the following—

(a) the applicant is an eligible person;

(b) the proposed area of the proposed petroleum lease—

(i) is appropriate for the authorised activities proposed to be carried out; and

(ii) if the authorised activities relate to petroleum production—contains commercial quantities of petroleum; and

(iii) if the authorised activities relate to storage of petroleum or a prescribed storage gas—contains an adequately identified natural underground reservoir that is adequate for the proposed purpose of the lease;

(c) the conditions of the relevant authority to prospect have been substantially complied with;

(d) the Minister has approved the applicant's proposed initial development plan for the lease;

(e) the Minister is of the opinion that the applicant is capable of carrying out authorised activities for the lease, having regard to the applicant's—

(i) financial and technical resources; and

(ii) ability to manage petroleum exploration and production;

(f) a relevant environmental authority for the lease has been issued;

(g) the applicant has established 1 of the matters mentioned in subsection (2);

(h) the applicant has paid the annual rent for the first year of the proposed lease;

(i) the applicant has given, under section 488, security for the lease.

(2) For subsection (1)(g), the matters are any of the following—

(a) commercial petroleum production in the area of the lease is, or is likely, within 2 years after the lease is to take effect;

(b) the applicant has—

Not authorised—indicative only

Not authorised—indicative only

(i) entered into a contract, coordination arrangement or other arrangement (a ***relevant arrangement***) to supply petroleum produced from the area of the lease; and

(ii) lodged a written declaration that the petroleum produced from the area of the lease will meet all or some of the petroleum required to be supplied under the relevant arrangement;

(c) the area of the lease is suitable for underground storage of petroleum or a prescribed storage gas and the storage will, or is likely to, start before the later of the following to happen—

(i) the end of 5 years after the lease is to take effect;

(ii) the end of the plan period for the applicant's proposed development plan for the lease.

(3) The matters mentioned in subsection (1)(e) are the ***capability criteria***.

(4) A person ***satisfies*** the capability criteria if the Minister forms the opinion about the person mentioned in subsection (1)(e).

122 Exception for particular relevant arrangements

Despite section 120, the application may be refused if the Minister—

(a) is not satisfied of a matter under section 121(2)(a) or (c); and

(b) is satisfied the applicant has entered into a relevant arrangement, but the Minister reasonably believes—

(i) the arrangement is not an arms-length commercial transaction; or

(ii) supply under the arrangement is unlikely to be carried out.

123 Provisions of petroleum lease

(1) Each petroleum lease must state its term and area.

(2) The term must—

(a) be for at least the plan period for the initial development plan for the lease; and

(b) end no later than 30 years after the lease takes effect.

(3) The lease may also state—

(a) conditions or other provisions of the lease, other than conditions or provisions that are—

(i) inconsistent with the mandatory conditions for petroleum leases; or

(ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease; and

(b) a day for the lease to take effect; and

(c) a day by which petroleum production under the lease is to start.

(3A) The conditions of the lease may include an Australian market supply condition applying to all or part of the area of the lease.

(4) However, the provisions of the lease may exclude or restrict the carrying out of an authorised activity for the lease.

(5) The day of effect must not be before the day the lease is granted.

(6) If no day of effect is decided, the lease takes effect on the day it is granted.

(7) The production commencement day may be more than 2 years after the day of effect only if the Minister is satisfied the holder has entered into a relevant arrangement.

(8) The matters that must be considered in deciding the provisions of the lease include the development plan criteria and capability criteria.

Not authorised—indicative only

Not authorised—indicative only

(9) This section applies subject to section 123A.

123A Provisions about grant and conditions of petroleum lease for coordinated project

(1) This section applies if a petroleum lease or proposed petroleum lease is for a coordinated project.

(2) The Minister must not grant the lease until the Minister has been given the Coordinator-General's report for the project.

(3) Any Coordinator-General's conditions for the lease must be stated in the lease.

(4) Any other condition of the lease stated under section 123 must not be inconsistent with the Coordinator-General's conditions.

(5) If a mandatory condition for petroleum leases conflicts with any of the Coordinator-General's conditions, the Coordinator-General's condition prevails to the extent of the inconsistency.

124 Information notice about refusal

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

Note—

See however section 829 (Restriction on Land Court's powers for decision not to grant petroleum lease).

125 When refusal takes effect

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

Division 3 Obtaining petroleum lease by competitive tender

Subdivision 1 Preliminary

126 Operation of div 3

(1) This division provides for a process for the granting of petroleum leases by competitive tender.

(2) To remove any doubt, it is declared that a petroleum lease can only be granted under this division, division 2 or division 7, subdivision 2.

Subdivision 2 Calls for tenders

127 Call for tenders

(1) The Minister may publish a notice (a ***call for tenders***) inviting tenders for a petroleum lease.

(2) The call must state—

(a) the proposed area of the lease; and

(b) that, under section 169, particular land may be excluded land for the lease; and

(c) the day and time by which tenders in response to it must be made (the ***closing time*** for the call); and

(d) that the tenders must be lodged before the closing time for the call; and

(e) that details about each of the following are available at a stated place—

(i) any proposed conditions of the lease, other than mandatory conditions for petroleum leases, that are

Not authorised—indicative only

Not authorised—indicative only

likely to impact significantly on exploration or production in the proposed area of the lease;

(ii) the required plan period for the initial development plan for the lease;

(iii) any criteria (***special criteria***), other than the development plan criteria and capability criteria, proposed to be used to decide whether to grant the lease or to decide its provisions;

(iv) whether a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call;

(v) if any part of the proposed area of the lease is to be subject to an Australian market supply condition—the part of the proposed area and the condition.

(3) The call may state other relevant matters, including, for example, matters relevant to the development plan, capability or special criteria.

(4) The area of the proposed lease must comply with section 168.

(5) Subsection (2)(e)(i) does not limit the power under section 133 to decide conditions of the lease if it is granted.

128 Right to tender

(1) An eligible person may tender for a proposed petroleum lease the subject of a call for tenders.

(2) However, the tender—

(a) must comply with the requirements under section 118 for making an ATP-related application; and

(b) must be lodged; and

(c) can not be made—

(i) after the closing time for the call; or

(ii) for only part of the area of the proposed petroleum lease.

(3) Also, if a process for appointing a preferred tenderer involving a cash bid component is to be used for deciding the call, the tender must be accompanied by the tenderer's cash bid.

128A Rejection of tender if tenderer disqualified

(1) The Minister must reject a tender for a petroleum lease if the Minister decides the tenderer is disqualified under the Common Provisions Act, chapter 7 from being granted the petroleum lease.

(2) On rejection of the tender, the Minister must give the tenderer a notice about the decision.

129 Right to terminate call for tenders

(1) The Minister may, by gazette notice, terminate a call for tenders at any time before deciding to grant a petroleum lease to a person who has made a tender in response to the call.

(2) All tenders in response to the call lapse when the call is terminated.

(3) No amount, whether by way of compensation, reimbursement or otherwise is payable by the State to any person for or in connection with the termination.

(4) However, subject to sections 131(4) and 845(5), the Minister must refund any tender security given by the tenderer.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Deciding tenders

130 Process for deciding tenders

(1) Subject to section 134, any process the Minister considers appropriate may be used to decide a call for tenders, including, for example—

(a) a process appointing a preferred tenderer on the tenders made in response to the call (whether or not involving a cash bid component); or

(b) a process involving short-listing a group of possible preferred tenderers and inviting them to engage in another round of tendering before appointing a preferred tenderer from that group.

(2) Without limiting subsection (1), the Minister may give a tenderer a notice requiring the tenderer to give the Minister, within the reasonable period stated in the notice, information the Minister reasonably requires to assess the tender.

131 Provisions for preferred tenderers

(1) The Minister may require a preferred tenderer for the call for tenders to—

(a) pay any amounts necessarily incurred, or to be incurred, to enable the petroleum lease to be granted; and

Example—

amounts required to comply with the Commonwealth Native Title Act, part 2, division 3, subdivision P

(b) to do all or any of the following within a stated reasonable period—

(i) pay the annual rent for the first year of the lease;

(ii) give security for the lease, as required under section 488.

(2) If a preferred tenderer does not—

(a) comply with a requirement under subsection (1); or

(b) do all things reasonably necessary to allow a petroleum lease to be granted to the tenderer;

the Minister may revoke the tenderer's appointment as the preferred tenderer.

(3) However, before acting under subsection (2), the Minister must give the preferred tenderer a reasonable opportunity to provide reasons for, and rectify, the tenderer's failure to comply with a requirement under subsection (1) or (2)(b).

(4) If the Minister revokes the tenderer's appointment as the preferred tenderer under this section, the Minister may—

(a) retain the whole or part of any tender security given by the tenderer, if the Minister considers it reasonable in the circumstances; and

(b) appoint another tenderer to be the preferred tenderer.

132 Deciding whether to grant petroleum lease

(1) The Minister may, after the closing time for the call for tenders—

(a) grant a petroleum lease to 1 tenderer; or

(b) refuse to grant any petroleum lease.

(2) However—

(a) before deciding to grant the lease, the Minister must decide whether to approve the applicant's proposed initial development plan for the lease; and

(b) the Minister can not grant the lease unless—

(i) the tenderer is an eligible person; and

(ii) the proposed plan has been approved; and

(iii) the Minister is satisfied the requirements for grant, other than the requirement mentioned in section 121(1)(c), have been complied with; and

Not authorised—indicative only

Not authorised—indicative only

(iv) a relevant environmental authority for the lease has been issued.

Note—

If a tender relates to acquired land, see also section 30AC.

(3) This section applies subject to section 123A.

133 Provisions of petroleum lease

Sections 123 and 123A apply to a petroleum lease granted under this division as if the tender for the lease was an ATP-related application.

134 Criteria for decisions

(1) The matters that must be considered in deciding whether to grant a petroleum lease or its provisions include the development plan criteria, capability criteria and any special criteria.

(2) The Minister may give the weight to each of the development plan, capability and special criteria that the Minister considers appropriate in the circumstances.

135 Notice to unsuccessful tenderers

(1) After a call for tenders has been decided, each tenderer not granted the petroleum lease must be given notice of the decision.

Note—

See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

(2) Subject to sections 131(4) and 845(5), the Minister must refund any tender security given by the tenderer.

Division 4 Development plans

Subdivision 1 Function and purpose of development plan

136 Function and purpose

(1) The development plan for a petroleum lease or proposed petroleum lease (the ***relevant lease***) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.

(2) The development plan may—

(a) also relate to another petroleum lease or proposed petroleum lease if the other lease or proposed lease relates to the relevant lease; and

(b) provide that when the plan is approved it will replace any development plan for the other lease.

(3) The purposes of giving the information are to—

(a) allow resource management decisions to be made; and

(b) ensure appropriate development of the lease.

Subdivision 2 Requirements for proposed initial development plans

137 Operation of sdiv 2

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

Note—

For additional requirements for development plans for coal seam gas, see chapter 3, part 6.

Not authorised—indicative only

Not authorised—indicative only

138 General requirements

(1) The proposed plan must provide for each of the following—

(a) an overview of the activities proposed to be carried out under the lease or proposed lease during all of its term;

(b) for each year of the plan period—

(i) the nature and extent of activities proposed to be carried out under the lease or proposed lease during the year; and

(ii) where the activities are proposed to be carried out; and

(iii) the estimated cost of the activities;

(c) for each natural underground reservoir in the area of the lease of which the applicant is aware, each of the following—

(i) the location and a verifiable estimate of the amount of petroleum in the reservoir;

(ii) the standards and procedures used to make the estimate;

(iii) the rate and amount of production proposed from the reservoir;

(iv) approximately when the proposed production is to start;

(v) a schedule for the proposed production during the plan period;

(d) maps that show the matters mentioned in paragraphs (b)(i) and (ii) and (c)(i);

(e) any other information relevant to the development plan criteria;

(f) reasons why the plan is considered appropriate;

(g) another matter prescribed under a regulation.

(2) A regulation may impose requirements about the form of the development plan.

(3) In this section—

year, of the plan period, means—

(a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and

(b) each subsequent period of 12 months or less during the plan period, starting on each anniversary of that day and ending on—

(i) the next anniversary of that day; or

(ii) if the plan period ends before the next anniversary—the day the plan period ends.

139 Plan period

(1) The proposed plan must state its period.

(2) If the proposed plan relates to a tender, the period must be the same as the required period under the relevant call for tenders.

(3) If the proposed plan relates to an ATP-related application, the period must not be longer than—

(a) if the term sought for the lease is less than 5 years from the granting of the lease—the term of the lease; or

(b) if the term sought for the lease is 5 years or more from the start of the term—5 years from the start of the term.

140 Storage

If natural underground reservoir storage is proposed, the proposed plan must include the following—

(a) a program for evaluating, developing and using the reservoir;

(b) a verifiable estimate of its storage capacity;

Not authorised—indicative only

Not authorised—indicative only

(c) the standards and procedures used to make the estimate;

(d) a schedule for the storage injection and withdrawal;

(e) another matter prescribed under a regulation.

Subdivision 3 Criteria for deciding whether to approve proposed initial development plans

Note—

For the requirement for approval of an initial development plan, see sections 120 and 132.

141 Criteria

The matters that must be considered in deciding whether to approve a proposed development plan include each of the following (the ***development plan criteria***)—

(a) the potential of the area of the proposed petroleum lease for petroleum production and related activities;

(b) the nature and extent of the activities;

(c) when and where the activities are proposed to be carried out;

(d) whether petroleum production sought under the lease will be optimised in the best interests of the State, having regard to the public interest.

Subdivision 4 Requirements for proposed later development plans

142 Operation of sdiv 4

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

Note—

For the requirements to lodge a proposed later development plan, see sections 159 (Obligation to lodge proposed later development plan), 170 (Minister may add excluded land), 372 (Requirements for making application) and 790 (Types of noncompliance action that may be taken).

143 General requirements

(1) The proposed plan must—

(a) comply with the initial development plan requirements, as if the reference in section 139(3) to the term sought for the lease were a reference to the remaining term, or the renewed term, of the lease; and

(b) highlight any significant changes from the current development plan for the lease; and

(c) if the current development plan has not been complied with—state the details of, and the reasons for, each noncompliance.

(2) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan for the lease, the proposed plan must also state reasons for the change.

(3) Also, for a significant change that is a cessation or reduction of petroleum production, the proposed plan must include an evaluation of—

Not authorised—indicative only

Not authorised—indicative only

(a) petroleum production potential in the area of the lease; and

(b) market opportunities for petroleum production in the area of the lease.

144 Later development plans for proposed new leases

Proposed later development plans for an application under division 7, subdivision 2, to divide a petroleum lease must have a combined effect that is at least the effect of the development plan for the original lease.

Subdivision 5 Approval of proposed later development plans

145 Application of sdiv 5

This subdivision applies if—

(a) under this Act, a proposed later development plan is lodged for approval; or

Note—

For requirements to lodge a proposed later development plan, see sections 100, 159, 170, 372 and 790, division 6 and division 7, subdivision 2.

(b) the Minister is considering an application under section 235 for approval of a proposed coordination arrangement.

145A Modified application of ch 14, pt 1

Chapter 14, part 1 applies in relation to the lodgement by a petroleum lease holder of a proposed later development plan as if—

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

(b) the later development plan requirements for the proposed plan were the requirements under chapter 14, part 1 for making the application.

146 Petroleum lease taken to have development plan until decision on whether to approve proposed development plan

(1) This section applies until—

(a) if the proposed plan is approved—the holder is given notice of the approval; or

(b) if approval of the proposed plan is refused—when the refusal takes effect.

(2) Despite the ending of the plan period for the current development plan for the petroleum lease—

(a) the lease is taken to have a development plan; and

(b) the holder may carry out any authorised activity for the lease.

147 Deciding whether to approve proposed plan

(1) The Minister may approve or refuse to approve the proposed plan.

(2) The matters that must be considered in deciding whether to approve the proposed plan include each of the following—

(a) the development plan criteria;

(b) the extent to which the current development plan for the lease has been complied with;

(c) if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production—

(i) whether the cessation or reduction is reasonable; and

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(ii) whether the petroleum lease holder has taken all reasonable steps to prevent the cessation or reduction.

(3) Also, if the lease was granted in response to a tender, any other development plan proposed by other tenderers for the lease must be taken into account.

(4) However, subsection (3) applies only to the extent the other plan includes the period of the proposed plan.

(5) The Minister may give the holder of the petroleum lease a notice requiring the holder to give the Minister, within the reasonable period stated in the notice, information the Minister reasonably requires to decide whether to approve the proposed plan.

(6) If the holder does not comply with the requirement, the Minister may refuse to approve the proposed plan.

148 Power to require relinquishment

(1) This section applies if the proposed plan provides for a significant change that is a cessation or reduction of petroleum production.

(2) The Minister may approve the proposed plan, but—

(a) decide (a ***deferral decision***)—

(i) to defer the taking of effect of the approval until the petroleum lease holder relinquishes, by a lodged notice, a stated part or percentage of the area of the lease on or before a stated day; and

(ii) that the decision to approve the proposed plan is replaced by a decision not to approve it if the notice is not lodged on or before the stated day; or

(b) impose a condition on the lease requiring its holder to relinquish, by a lodged notice, a stated part or percentage of the area of the lease at stated times or intervals.

(3) The public interest must be considered before making a deferral decision or imposing the condition.

(4) A relinquishment under subsection (2)(a)(i) takes effect on the day after the notice is lodged.

149 Steps after, and taking effect of, decision

(1) On approval of the proposed later development plan, the holder must be given notice of the approval.

(2) The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on that later day.

(3) The holder must be given an information notice about—

(a) a decision to refuse to approve the proposed plan; or

(b) a decision, under section 148, to make a deferral decision or impose a condition.

(4) A refusal does not takes effect until the end the appeal period for the decision to refuse.

Division 5 Key mandatory conditions for petroleum leases

Subdivision 1 Preliminary

150 Operation of div 5

This division provides for particular mandatory conditions for petroleum leases.

Notes—

1 The following provisions also impose mandatory conditions on petroleum leases—

- division 1
- parts 4 and 10

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- sections 181 and 202
- part 6, division 2, subdivision 2
- chapter 3, part 5, division 2
- chapter 3A, part 5
- chapter 5.

2 For what is a mandatory condition, see section 20(2).

Subdivision 2 Key mandatory conditions for particular types of testing

150A PL production testing

(1) Subject to section 151, a petroleum lease holder may carry out testing for petroleum production for a petroleum well (***PL production testing***) within the area of the lease.

(2) However, it is a condition of the petroleum lease that—

(a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the PL production testing within 20 business days after the testing starts; and

(b) the testing is carried out after the end date for the testing only with the Minister's approval.

(3) The Minister may, at any time, approve the carrying out after the end date for PL production testing (the ***original PL production testing***) of further PL production testing and the approval is subject to the conditions the Minister considers appropriate.

(4) If the Minister decides not to approve the carrying out of further PL production testing, the Minister must give the petroleum lease holder an information notice about the decision.

150B Approval of particular ATP production testing taken to be approval for PL production testing

(1) This section applies if—

(a) under section 71A(3), the Minister has approved the carrying out of further ATP production testing by an authority to prospect holder for a petroleum well within an area (the ***original approval***); and

(b) the Minister grants the holder a petroleum lease under section 120 or 340 for the area, or a part of the area containing the petroleum well.

(2) The original approval continues in existence for the further ATP production testing, and is taken to be an approval by the Minister, under section 150A(3) (the ***transitional approval***), of further PL production testing for the petroleum well.

(3) The transitional approval is subject to—

(a) the conditions to which the original approval is subject under section 71A(3); and

(b) any new conditions the Minister considers appropriate.

150C PL storage testing

(1) Subject to section 151, a petroleum lease holder may carry out testing for the storage of petroleum or a prescribed storage gas in a natural underground reservoir (***PL storage testing***) within the area of the lease.

(2) However, it is a condition of the petroleum lease that—

(a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the PL storage testing within 20 business days after the testing starts; and

(b) the testing is carried out after the end date for the testing only with the Minister's approval.

(3) Subject to subsection (4), the Minister may, at any time, approve the carrying out after the end date for PL storage

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testing (the ***original PL storage testing***) of further PL storage testing and the approval is subject to the conditions the Minister considers appropriate.

(4) An approval may not be given under subsection (3) more than 1 day before the end date for the original PL storage testing.

(5) If the Minister decides not to approve the carrying out of further PL storage testing, the Minister must give the petroleum lease holder an information notice about the decision.

(6) Despite subsections (1) to (3), a petroleum lease holder can not carry out GHG stream storage.

150D Approval of particular ATP storage testing taken to be approval for PL storage testing

(1) This section applies if—

(a) under section 71B(3), the Minister has approved the carrying out of further ATP storage testing by an authority to prospect holder for a natural underground reservoir within an area (the ***original approval***); and

(b) the Minister grants the holder a petroleum lease under section 120 for the area, or a part of the area containing the natural underground reservoir.

(2) The original approval continues in existence for the further ATP storage testing, and is taken to be an approval by the Minister, under section 150C(3) (the ***transitional approval***), of further PL storage testing for the reservoir within the area of the petroleum lease.

(3) The transitional approval is subject to—

(a) the conditions to which the original approval is subject under section 71B(3); and

(b) any new conditions the Minister considers appropriate.

150E Petroleum lease holder must notify chief executive if testing stops

If a petroleum lease holder stops carrying out any PL production testing or PL storage testing within the area of the lease for a continuous period of 14 days or more, the holder must give the chief executive a notice, containing the information prescribed by regulation, in relation to the testing within 20 business days after the testing stops.

Subdivision 3 Other key mandatory conditions

151 Restriction on flaring or venting

(1) A petroleum lease holder must not flare or vent petroleum in a gaseous state produced under the lease unless the flaring or venting is authorised under this section.

(2) Flaring the gas is authorised if it is not commercially or technically feasible to use it—

(a) commercially under the lease; or

(b) for an authorised activity for the lease.

(3) Venting the gas is authorised if—

(a) it is not safe to use the gas for a purpose mentioned in subsection (2)(a) or (b) or to flare it; or

(b) flaring it is not technically practicable.

(4) Venting the gas is also authorised if—

(a) it is being used, or is proposed to be used, under a greenhouse abatement scheme; and

(b) if subsection (1) were to apply, the direct or indirect benefit the lease holder would otherwise obtain because of the use of the gas under the scheme would be reduced.

(5) In this section—

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greenhouse abatement scheme means—

(a) the *Electricity Supply Act 1995* (NSW), part 8A; or

Note—

See, in particular, the *Greenhouse Gas Benchmark Rule (Generation) No. 2 of 2003*, paragraph 10.1 (Total greenhouse gas emissions), made under the *Electricity Supply Act 1995* (NSW), part 8A, section 97K.

(b) the Commonwealth's Greenhouse Gas Abatement Program; or

(c) another scheme about the abatement of greenhouse gases prescribed under a regulation.

154 Obligation to commence production

(1) A petroleum lease holder must start petroleum production under the lease on or before the later of the following—

(a) the end of 2 years after the lease takes effect;

(b) any production commencement day for the lease.

(2) However, subsection (1) does not apply if the development plan for the lease only provides for natural underground reservoir storage.

155 Petroleum royalty and annual rent

(1) A petroleum lease holder must pay the State—

(a) petroleum royalty as required under chapter 6; and

(b) the annual rent, as prescribed under a regulation.

(2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

156 Civil penalty for nonpayment of annual rent

(1) If a petroleum lease holder does not pay the annual rent as required under section 155, the holder must also pay the State a civil penalty.

(2) The amount of the penalty is 15% of the rent.

(3) The penalty—

(a) must be paid on the day after the last day for payment of the rent; and

(b) is still payable even if the holder later pays the rent.

156A Local government rates and charges

A petroleum lease holder must pay all rates and charges payable to the local government in whose area the lease is situated.

157 Requirement to have development plan

The holder of a petroleum lease must have a development plan for the lease.

Notes—

1 The only development plan for a petroleum lease is its current initial or later development plan as approved under division 4.

2 For the requirements to lodge a proposed later development plan see sections 159, 170, 372 and 790.

3 For approval of proposed later development plans see division 4, subdivision 5.

158 Compliance with development plan

(1) A petroleum lease holder must comply with the development plan for the lease.

(2) However, subsection (1) does not apply to a failure to comply with the plan that is an act or omission by the holder to ensure

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compliance with an insufficiency of supply direction under the *Gas Supply Act 2003*.

159 Obligation to lodge proposed later development plan

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

Notes—

1 For approval of the proposed plan, see division 4, subdivision 5.

2 If the holder wishes to renew the lease, a proposed later development plan must be included in the renewal application. See section 162(1).

(2) The obligation is complied with only if the proposed later development plan—

(a) is lodged; and

(b) complies with the later development plan requirements; and

(c) is accompanied by the relevant fee.

(3) A proposed later development plan must be lodged—

(a) at least 40, but no more than 100, business days before the end of the plan period for its current development plan (the ***current plan period***); or

(b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the lease.

(4) However, if before the end of the current plan period, a decision is made not to approve a proposed later development plan lodged under subsection (3), the holder may, within the eligible balance of the period, lodge another proposed later development plan.

(5) If the holder does not lodge any proposed later development plan before the end of the current plan period or if subsection

(4) applies and the holder does not lodge another proposed later development plan within the eligible balance of the current plan period—

(a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 40 business days after the giving of the notice; and

(b) the holder must comply with the requirement.

(6) In this section—

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

relevant fee, for the lodgement of the proposed plan, means—

(a) if the proposed plan is lodged within the time required under subsection (3)—the fee prescribed under a regulation; or

(b) if the proposed plan is lodged after the time required under subsection (3) and—

(i) if it is lodged under subsection (4)—nil; or

(ii) if it is not lodged under subsection (4)—an amount that is 10 times the prescribed fee.

160 Consequence of failure to comply with notice to lodge proposed later development plan

(1) If a petroleum lease holder does not comply with a requirement under section 159(5)(a), the lease is cancelled.

(2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

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160A Power to impose or amend condition if changed holder of petroleum lease

(1) This section applies if 1 of the following changes happens—

(a) an entity starts or stops controlling the holder of a petroleum lease under the Corporations Act, section 50AA;

(b) the holder of a petroleum lease starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.

(2) The Minister may consider whether, after the change, the holder of the petroleum lease has the financial and technical resources to comply with the conditions of the petroleum lease.

(3) If the Minister considers the holder of the petroleum lease may not have the financial and technical resources to comply with conditions of the petroleum lease, the Minister may impose another condition on, or amend a condition of, the petroleum lease.

(4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of the petroleum lease to give the Minister information or a document about whether or not the change has happened.

(5) Before deciding to impose another condition on, or amend a condition of, the petroleum lease under subsection (3), the Minister may require the holder of the petroleum lease to give the Minister information or a document the Minister requires to make the decision.

(6) A requirement under subsection (4) or (5) must—

(a) be made by notice given to the holder; and

(b) state a period of at least 10 business days within which the holder must comply with the requirement.

(7) Before deciding to impose another condition on, or amend a condition of, the petroleum lease under subsection (3), the Minister must give the holder of the lease a notice stating—

(a) the proposed decision; and

(b) the reasons for the proposed decision; and

(c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.

(8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the petroleum lease.

(9) In deciding whether to impose another condition on, or amend a condition of, the petroleum lease under subsection (3), the Minister—

(a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and

(b) may consider any other matter the Minister considers relevant.

(10) If the Minister decides to impose another condition on, or amend a condition of, the petroleum lease under subsection (3), the Minister must, as soon as practicable after making the decision, give the holder a notice stating the decision and the reasons for the decision.

Division 6 Renewals

161 Conditions for renewal application

(1) A petroleum lease holder may apply to renew the lease only if none of the following is outstanding—

(a) annual rent for the lease;

(b) a civil penalty under section 156 for nonpayment of annual rent;

(c) rates and charges, including interest on overdue rates and charges, payable to the local government in whose area the lease is situated;

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(d) interest payable under section 588 on annual rent or a civil penalty;

(e) a royalty-related amount payable by the holder;

(f) security for the lease, as required under section 488.

(2) Also, the application can not be made—

(a) more than 80 business days before the end of the term of the lease; or

(b) after the lease has ended.

(3) However, the Minister may allow the application to be made up to 2 years before the end of the term of the lease if the Minister is of the opinion that—

(a) a storage agreement is in force for the lease or the holder has negotiated, or is negotiating, a proposed storage agreement for the lease; and

(b) the agreement or proposed agreement will be in force after the proposed renewed lease takes effect.

162 Requirements for making renewal application

(1) The application must—

(a) be in the approved form; and

(b) state whether or not the development plan for the petroleum lease has been complied with; and

(c) if the development plan has not been complied with—state details of, and the reasons for, each noncompliance; and

(d) include a proposed later development plan for the renewed lease; and

(e) state whether or not the applicant has complied with chapter 5, part 7, for reports required to be lodged in relation to the lease; and

(f) be accompanied by—

(i) the application fee prescribed under a regulation; and

(ii) if the application is made less than 40 business days before the end of the term of the lease—an amount that is 10 times the application fee.

(2) The proposed later development plan must comply with the later development plan requirements.

163 Continuing effect of lease for renewal application

(1) This section applies if the term of the petroleum lease ends before the application is decided.

(2) Despite the ending of the term, the lease continues in force until the earlier of the following to happen—

(a) the start of any renewed term of the lease;

(b) a refusal of the application takes effect;

(c) the application is withdrawn;

(d) the lease is cancelled under this Act.

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

164 Deciding application

(1) The Minister may grant or refuse the renewal.

(2) However—

(a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later development plan for the renewed petroleum lease; and

(b) the renewal can not be granted unless—

(i) the proposed plan has been approved; and

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(ii) the Minister considers the applicant satisfies the capability criteria and has substantially complied with the lease being renewed; and

(iii) a relevant environmental authority for the renewed lease has been issued.

Note—

If the application relates to acquired land, see also section 30AC.

(3) Also, the Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—

(a) pay the annual rent for the first year of the renewed lease;

(b) pay rates and charges, including interest on overdue rates and charges, payable to the local government in whose area the lease is situated;

(c) give, under section 488, security for the renewed lease.

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

165 Provisions and term of renewed lease

(1) Subject to this section, section 123 applies to the renewed petroleum lease as if it were a petroleum lease granted under division 2.

(2) The conditions or other provisions of the renewed lease may be different from the conditions or other provisions of the petroleum lease being renewed.

(3) The area of the renewed lease must not be more than the area of the petroleum lease being renewed immediately before the renewed lease is to take effect.

Note—

See, however, section 30AC(3) in relation to acquired land that was previously in the area of the petroleum lease being renewed.

(4) If the renewal is decided before the end of the term of the petroleum lease being renewed as stated in that lease (the ***previous term***), the term of the renewed lease is taken to start from the end of the previous term.

(5) If the renewed lease is decided after the previous term, the term of the renewed lease starts immediately after the end of the previous term, but—

(a) the conditions of the renewed lease do not start until the lease holder is given notice of them; and

(b) until the notice is given, the conditions of the petroleum lease being renewed apply to the renewed lease as if they were its conditions.

(6) The term of the renewed lease must not be more than—

(a) if it has not been previously renewed—the original term of the lease; or

(b) if it has been previously renewed—its last renewed term.

166 Information notice about refusal

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

167 When refusal takes effect

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

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Division 7 Miscellaneous provisions

Subdivision 1 Area of petroleum lease

168 Area of petroleum lease

(1) This section provides for the area of a petroleum lease.

(2) The area does not include excluded land for the lease.

Note—

See also section 30AB(3) if land in the petroleum lease's area is taken under a resumption law.

(3) Unless the Minister otherwise decides, the area must form a single parcel of land.

(4) The area must not include any of the following (***unavailable land***)—

(a) land in the area of another petroleum tenure, other than land that will, under section 101, cease to be included in the area of an authority to prospect on the grant of the lease;

(b) excluded land for another petroleum tenure;

(c) land in the area of a 1923 Act petroleum tenure;

(d) excluded land for a 1923 Act petroleum tenure;

(e) land that a regulation prescribes as land over which a petroleum lease can not be granted.

(5) To remove any doubt, it is declared that if land within any sub-block that the lease states is included in the area of the lease ceases to be unavailable land, the cessation itself does not cause the land to be within the area of the lease.

(6) For subsection (5), if the lease states that its area includes land within a block without including or excluding any particular sub-block, the reference to the block is a reference to all sub-blocks within the block.

(7) The area may include a part of a sub-block only if the part is all areas within the sub-block that are left after taking away all unavailable land within the sub-block (a ***residual sub-block***).

Note—

See also section 30AB(3) if land in the petroleum lease's area is taken under a resumption law.

169 Minister's power to decide excluded land

(1) The Minister may decide excluded land for a petroleum lease or proposed petroleum lease.

(2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—

(a) grant or renew the lease; or

(b) approve any later development plan for the lease.

(3) However, excluded land—

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

(b) can not be a whole sub-block.

(4) For subsection (3)(a), if the register—

(a) states that the lease's area includes land within a block; but

(b) does not include or exclude any particular sub-block within that block;

the reference to the block in the register is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.

(5) Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.

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(6) Land ceases to be excluded land for a petroleum lease if, for any reason, the sub-block in which the land is located ceases to be in the area of the lease.

170 Minister may add excluded land

(1) The Minister may amend a petroleum lease by adding excluded land for the lease to its area only if—

(a) the lease as amended complies with section 168; and

(b) the lease holder consents.

(2) If land mentioned in subsection (1) is added to the area of the lease, the land ceases to be excluded land for the lease.

(3) The Minister may amend the provisions of the lease in a way that reflects the inclusion of the excluded land.

(4) Also, the Minister may give the lease holder a notice—

(a) withdrawing, from a stated day, the approval of the development plan for the lease; and

(b) directing the holder to lodge a proposed later development plan for the lease that—

(i) complies with the later development plan requirements; and

(ii) changes the development plan for the lease to reflect the inclusion of the excluded land.

(5) The amended provisions of the lease or the proposed later development plan must not be—

(a) inconsistent with the mandatory conditions for petroleum leases; or

(b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease.

Subdivision 1A Amalgamating particular petroleum leases

170A Applying to amalgamate petroleum leases

(1) A person may apply to the Minister to amalgamate 2 or more petroleum leases (each an ***individual lease***) into a single petroleum lease (the ***amalgamated lease***).

(2) An application can be made only if—

(a) all of the holders of the individual leases agree to the proposed amalgamation; and

(b) the holders of the amalgamated lease will be the same as the holders of the individual leases.

(3) Also, a person can not make an application under subsection (1) if—

(a) any of the holders of the individual leases have not complied with a provision of this Act; or

(b) any of the following amounts is outstanding in relation to an individual lease—

(i) annual rent;

(ii) a civil penalty under section 156 for non-payment of annual rent;

(iii) rates and charges, including interest on overdue rates and charges, payable to the local government in whose area the lease is situated;

(iv) interest payable under section 588 on annual rent or a civil penalty;

(v) a royalty-related amount payable by the holder;

(vi) security required under section 488.

Not authorised—indicative only

Not authorised—indicative only

170B Applying to amalgamate 1923 Act lease

(1) A person may apply to the Minister to amalgamate 2 or more 1923 Act leases (each also an ***individual lease***) into a single petroleum lease (also the ***amalgamated lease***).

(2) An application can be made only if—

(a) the holder of each individual lease has also applied under section 908 for a petroleum lease for all or part of the area of the lease; and

(b) all of the holders of the individual leases agree to the proposed amalgamation; and

(c) the holders of the amalgamated lease will be the same as the holders of the individual leases.

(3) Also, a person can not make an application under subsection (1) if any of the holders of individual leases have not complied with a provision of the 1923 Act.

(4) If the application under section 908 is withdrawn, the application for amalgamation is taken to be withdrawn.

(5) If the application under section 908 is rejected, the application for amalgamation is taken to have lapsed.

170C Requirements for making application

The application must—

(a) be in the approved form; and

(b) include a proposed development plan for the amalgamated lease that, to the extent possible, is the same as the development plans for the individual leases; and

(c) be accompanied by the fee prescribed by regulation.

170D Deciding application

(1) The Minister may decide to grant or refuse to grant the amalgamated lease.

(2) However—

(a) before deciding to grant the amalgamated lease, the Minister must decide whether to approve the proposed development plan for the amalgamated lease; and

(b) the amalgamated lease can not be granted unless—

(i) the proposed development plan for the amalgamated lease has been approved; and

(ii) the Minister is satisfied each proposed holder of the amalgamated lease—

(A) satisfies the capability criteria; and

(B) continues to satisfy any special criteria that applied for deciding the application for each of the individual leases; and

(C) has substantially complied with the conditions of the individual leases.

(3) The matters that may be considered in granting the amalgamated lease include the development plans for the individual leases, the proposed development plan for the amalgamated lease and the capability criteria.

(4) The Minister may, as a condition of granting the amalgamated lease, require the applicant to give security or additional security for the amalgamated lease, under section 488, within a stated reasonable period.

(5) If the applicant does not comply with a requirement under subsection (4), the application may be refused.

Not authorised—indicative only

Not authorised—indicative only

170E Provisions of amalgamated lease

(1) Subject to this section, section 123 applies for the provisions of an amalgamated lease as if it were a petroleum lease granted under division 2.

(2) However, the production commencement day for the amalgamated lease must not be later than the earliest production commencement day of the individual leases.

170F Steps after deciding application

(1) If the Minister decides to grant the amalgamated lease, the Minister must give the applicant and any other holder of the amalgamated lease notice of—

(a) the provisions under section 123 of the lease; and

(b) the development plan approved for the lease.

(2) If the Minister decides to refuse to grant the amalgamated lease, the Minister must give the applicant an information notice for the decision.

Subdivision 2 Dividing petroleum leases

171 Applying to divide

(1) The holder of a petroleum lease (the ***original lease***) may apply to divide it into 2 or more petroleum leases (the ***new leases***).

(2) However, the holder may apply for a new lease to be granted to another person only if the other person—

(a) agrees to the proposed grant; and

(b) is an eligible person.

(3) Despite subsections (1) and (2), the holder can not make the application if any of the following is outstanding—

(a) annual rent for the original lease;

(b) a civil penalty under section 156 for nonpayment of annual rent;

(c) rates and charges, including interest on overdue rates and charges, payable to the local government in whose area the lease is situated;

(d) interest payable under section 588 on annual rent or a civil penalty;

(e) a royalty-related amount payable by the holder;

(f) security for the original lease, as required under section 488.

172 Requirements for making application

The application must—

(a) be in the approved form; and

(b) state whether or not the development plan for the original lease has been complied with; and

(c) if the development plan for the original lease has not been complied with—state details of, and the reasons for, each noncompliance; and

(d) include a proposed later development plan for each proposed new lease; and

Note—

For an additional requirement for the proposed development plans, see section 144.

(e) address the capability criteria for each proposed holder of the new leases; and

(f) state whether or not the holder has complied with chapter 5, part 7, for reports required to be lodged in relation to the original lease; and

(g) be accompanied by the fee prescribed under a regulation.

Not authorised—indicative only

Not authorised—indicative only

173 Deciding application

(1) The Minister may make or refuse to make the division.

(2) However—

(a) before deciding to make the division, the Minister must decide whether to approve the proposed later development plans for the new leases; and

(b) the division can not be made unless—

(i) the proposed plans have been approved; and

(ii) the applicant has established 1 of the matters mentioned in section 121(2) for each proposed lease; and

(iii) each proposed holder of the new leases satisfies the capability criteria; and

(iv) the Minister is satisfied the applicant continues to satisfy any special criteria that applied for deciding the application for the original lease; and

Note—

See sections 35(2)(h)(iii) and 43.

(v) the Minister is satisfied the applicant has substantially complied with the original lease.

(3) The matters that may be considered in making the division include the development plan for the original lease, the proposed later development plans and the capability criteria.

(4) The Minister may, as a condition of making the division, require the applicant to, under section 488, give security or additional security for all or any of the new leases within a stated reasonable period.

(5) If the applicant does not comply with the requirement, the division may be refused.

174 Provisions of new leases

(1) Subject to this section, section 123 applies for the provisions of a new lease as if it were a petroleum lease granted under division 2.

(2) However, the term of each new lease must not end later than the end of the term of the original lease.

(3) For any relinquishment condition for the new leases—

(a) the new leases are taken to have originally taken effect when the original lease originally took effect; and

(b) land within any sub-block that the original lease states is included in the area of the original lease is divided rateably between the new leases; and

(c) for working out previous relinquishments that are counted for the relinquishment condition for each new lease, the relinquishments previously counted for the relinquishment condition for the original lease are divided rateably between the new leases.

175 Steps after deciding application

(1) After the provisions of the new leases are decided, the applicant and anyone else who will be a holder of any new lease, must be given notice of the relevant provisions and development plans.

Note—

For noncompliance action started, or that could have been taken, against the original lease holder, see section 792.

(2) On refusal to make the division, the applicant must be given notice of the refusal.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Changing production commencement day

175AA When holder may apply to change production commencement day

The holder of a petroleum lease may apply to change the production commencement day for the lease to a new day only if—

(a) the holder has a relevant arrangement in place to supply petroleum produced from the area of the lease; and

(b) the application is made no later than 1 year, or a shorter period prescribed by regulation, before the day by which petroleum production under the lease is to start.

175AB Requirements for making application

(1) An application to change a production commencement day to a new day must—

(a) be made to the Minister in the approved form; and

(b) state—

(i) the proposed new day; and

(ii) the grounds for seeking the change; and

(c) be supported by information, documents or instruments detailing—

(i) the petroleum production required under all relevant arrangements relating to the lease; and

(ii) the reserves, resources and characteristics of natural underground reservoirs of all petroleum authorities required to supply petroleum under the relevant arrangements; and

(d) be accompanied by the fee prescribed under a regulation.

(2) The holder must also give the Minister information, documents or instruments detailing all relevant arrangements relating to the lease unless the holder—

(a) has already given the Minister the information, documents or instruments in complying with section 121(1)(g); and

(b) lodges a written declaration that there has been no change in the relevant arrangements.

(3) If the holder has already given the Minister the information, documents or instruments in complying with section 121(1)(g) but a relevant arrangement has been changed, the holder must give the Minister the details of the changed arrangement that the Minister reasonably requires to decide whether the lease is an arms-length commercial transaction.

175AC Deciding application

(1) After receiving an application to change a production commencement day to a new day, the Minister must decide whether or not to make the change.

(2) The Minister may, if the holder of the lease agrees in writing, change the production commencement day for the lease to another day.

(3) In deciding the application, the Minister must consider—

(a) whether the holder has substantially complied with the lease; and

(b) whether petroleum production under the lease will be optimised in the best interests of the State; and

(c) the public interest.

(4) The Minister may refuse the application if the Minister reasonably believes—

(a) a relevant arrangement relating to the lease is not an arms-length commercial transaction; or

Not authorised—indicative only

Not authorised—indicative only

(b) supply under the arrangement is unlikely to be carried out.

(5) If the Minister decides to change the production commencement day to a new day, the Minister must amend the lease to give effect to the change.

Note—

A change in the production commencement day may require a later development plan for the lease to be lodged—see section 159.

(6) The Minister may not decide to change the production commencement day to a day that is earlier than the day the decision is made.

(7) The holder of the petroleum lease is taken not to be in breach of the holder's obligation under section 154(1) before the first of the following happens—

(a) the Minister decides whether to change the production commencement day to a new day, and the decision is not appealed or, if there is an appeal, the appeal is finalised;

(b) the Minister changes the production commencement day with the agreement of the lessee under subsection (2).

175AD Information notice about decision

If the Minister decides not to change the production commencement day for a lease to a new day, the Minister must give the applicant an information notice about the decision.

Part 2A Prospective Gas Production Land Reserve

175A Meaning of *Australian market supply condition*

An ***Australian market supply condition***, for land, is a condition under which—

(a) gas produced from the land must not be supplied other than to the Australian market; and

(b) any contract or other arrangement for the supply of the gas must include a condition that the gas must not be further supplied other than to the Australian market.

175B Meaning of *Australian market*

Australian market, in relation to the supply of gas, means an entity or entities that will—

(a) consume the gas within Australia; or

(b) supply the gas to an entity or entities that will consume the gas within Australia.

175C Supply of gas from PGPLR land

(1) The holder of a petroleum tenure for PGPLR land—

(a) must not supply gas produced from the land other than to the Australian market; and

(b) must include in any contract or other arrangement for the supply of the gas a condition that the gas must not be further supplied other than to the Australian market.

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

(2) However, if the application of the Australian market supply condition to the land has been suspended under section 175G(1) for a stated period, subsection (1) does not apply to the holder for the stated period.

(3) An entity to which gas produced from PGPLR land is supplied—

(a) must not further supply the gas other than to the Australian market; and

(b) must include in any contract or other arrangement for the supply of the gas a condition that the gas must not be further supplied other than to the Australian market.

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(4) However, if the entity holds an exemption under section 175G(2) for a stated period in relation to the land, subsection (3) does not apply to the entity, for the stated period, in relation to gas produced from the land.

(5) Subsection (3)(a) applies subject to section 175D.

175D Urgent exemption from application of s 175C(3)(a)

(1) Subsection (2) applies if—

(a) an entity is a consumer of gas; and

(b) because of technical or operational problems, the entity is unable to consume gas produced from PGPLR land and supplied to the entity; and

(c) the entity has taken all reasonable steps to supply the gas to the Australian market but the entity considers it is not commercially viable to do so; and

(d) the entity supplies the gas other than to the Australian market; and

(e) the entity gives notice of the supply of the gas, the reason for the supply and the date the technical or operational problem arose, to the chief executive within 5 days after starting to supply the gas.

Example of a technical or operational problem for paragraph (b)—

the failure of the entity's plant or machinery

(2) Section 175C(3)(a) does not apply to the entity for 30 days after the technical or operational problem arises.

175E Suspension of application of, or exemption from, Australian market supply condition

(1) The holder of a petroleum tenure for PGPLR land may apply to the Minister for a suspension, for a stated period, of the application of the Australian market supply condition to the land if—

(a) market analysis indicates that, during the stated period, sufficient gas may be produced from existing and proposed petroleum tenures in the State to supply both the Australian market and export demand; or

(b) the holder has taken all reasonable steps to supply the gas produced from the PGPLR land to the Australian market but it is not commercially viable to do so.

(2) An entity to which gas produced from PGPLR land is supplied may apply to the chief executive for an exemption, for a stated period, from section 175C(3) in relation to the land if—

(a) market analysis indicates that, during the stated period, sufficient gas may be produced from existing and proposed petroleum tenures in the State to supply both the Australian market and export demand; or

(b) the entity has taken all reasonable steps to supply the gas produced from the PGPLR land to the Australian market but it is not commercially viable to do so.

Not authorised—indicative only

Not authorised—indicative only

175F Assessing commercial viability

In assessing commercial viability of the supply of gas produced from PGPLR land for section 175E, the Minister or the chief executive may have regard to the following—

(a) whether the rate of return on the investment of money required to produce gas from the land and supply it to the Australian market at least meets the rate of return considered acceptable by a reasonable petroleum producer or a lender to a petroleum producer;

(b) the market conditions at the time the application is made under section 175E, including, for example, access to markets, the expected duration of a contract or other arrangement for the supply of the gas, the price likely to be paid for the gas and the certainty and timing of market opportunities;

(c) whether, if commercial viability is dependent on the applicant reaching agreement with another entity or using the other entity's facilities or technology, the applicant can complete the agreement or use the facilities or technology on terms the applicant considers provide a reasonable rate of return for the applicant.

175G Deciding application

(1) The Minister may grant an application mentioned in section 175E(1) only if the Minister is satisfied about a matter mentioned in section 175E(1)(a) or (b).

(2) The chief executive may grant an application mentioned in section 175E(2) only if the chief executive is satisfied about a matter mentioned in section 175E(2)(a) or (b).

(3) If the Minister or chief executive refuses to grant an application, the applicant must be given an information notice for the decision.

175H Requirement to keep and give records

(1) This section applies to the following (each a ***selling entity***)—

(a) the holder of a petroleum lease for PGPLR land who supplies gas produced from the land;

(b) another entity that supplies gas produced from PGPLR land.

(2) A selling entity must, for the period and in the way prescribed under a regulation, keep the records prescribed under a regulation for each supply by the selling entity of gas produced from PGPLR land.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) If the chief executive gives a selling entity a notice asking for a copy of a record kept under subsection (2), the selling entity must give a copy of the record to the chief executive within the reasonable period stated in the notice.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

175I Order to enforce compliance with s 175C

(1) This section applies if, on the application of the chief executive, the District Court is satisfied—

(a) the holder of a petroleum tenure for PGPLR land is supplying gas produced from the land other than to the Australian market, contrary to section 175C(1)(a); or

Not authorised—indicative only

Not authorised—indicative only

(b) an entity to which gas produced from PGPLR land was supplied is further supplying the gas other than to the Australian market, contrary to section 175C(3)(a).

(2) The court may make either or both of the following orders—

(a) an order granting an injunction, on terms the court considers appropriate, restraining the holder or other entity from supplying the gas other than to the Australian market;

(b) another order the court considers appropriate.

(3) The court may decide not to make an order under this section in relation to the holder if the court considers that section 790(1)(b) or (c) provides a more appropriate way of dealing with the issue.

Part 3 Data acquisition authorities

Division 1 Obtaining data acquisition authority

176 Who may apply for data acquisition authority

(1) A petroleum tenure holder may apply for a data acquisition authority to allow the applicant to carry out the following activities (***data acquisition activities***)—

(a) geophysical surveys on land (the ***data acquisition land***) contiguous to land in the area of the tenure to enable the applicant to acquire data relevant to authorised activities under the tenure;

(b) the entering of the data acquisition land to carry out the geophysical surveys.

(2) However, the application can not be made or granted for land in the area of another petroleum tenure.

177 Requirements for making application

The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

178 Deciding application for data acquisition authority

(1) The Minister may grant or refuse the data acquisition authority.

(2) However, the data acquisition authority can not be granted unless a relevant environmental authority for the data acquisition authority has been issued.

Note—

If the application relates to acquired land, see also section 30AC.

(3) The authority must state its term and the area subject to the authority.

(4) The term must end no later than 2 years after the authority takes effect.

(5) The authority may also state—

(a) conditions or other provisions of the authority, other than conditions or provisions that are—

(i) inconsistent with section 180, 181 or 184A or any other mandatory condition for data acquisition authorities; or

Note—

Chapter 5 also imposes mandatory conditions on data acquisition authorities. In particular, see chapter 5, part 8.

(ii) inconsistent with a condition of the petroleum tenure to which the authority relates; or

(iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and

Not authorised—indicative only

Not authorised—indicative only

(b) the day it takes effect.

(6) However, the provisions of the authority may exclude or restrict the carrying out of data acquisition activities.

(7) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—

(a) pay the annual rent for the authority;

(b) give, under section 488, security for the authority.

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

179 Notice of refusal

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

Note—

See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

Division 2 Provisions for data acquisition authorities

Note—

See also chapter 5 (Common petroleum authority provisions).

180 Key authorised activities

(1) A data acquisition authority authorises its holder to carry out data acquisition activities in the area of the authority.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the data acquisition activities is subject to—

(a) section 6; and

(b) chapter 3, part 4, division 2; and

(c) chapter 3A, part 5; and

(d) chapter 5; and

(e) the mandatory and other conditions of the authority; and

(f) any exclusion or restriction provided for in the authority on the carrying out of the activities.

Note—

Also, the carrying out of particular activities on particular land in a data acquisition authority's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

181 Additional condition of relevant petroleum tenure

If a condition is imposed on a data acquisition authority (the ***authority condition***), it is a condition of the petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

Note—

Chapter 5 also imposes mandatory conditions on data acquisition authorities. In particular, see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2.

182 Authority holder is the relevant petroleum tenure holder from time to time

The holder of a data acquisition authority is taken to be the person who, from time to time, holds the petroleum tenure to which the authority relates.

183 Authority ends if relevant petroleum tenure ends

A data acquisition authority ends if the petroleum tenure to which it relates ends.

Not authorised—indicative only

Not authorised—indicative only

184 Relationship with subsequent petroleum tenure

(1) This section applies if a petroleum tenure is granted over land in the area of a data acquisition authority.

(2) The grant does not limit the authority or its term.

(3) However, an authorised activity for the authority may be carried out on the land only if—

(a) carrying out the activity does not adversely affect the carrying out of an authorised activity for the tenure; or

(b) the agreement conditions have been complied with.

(4) In this section—

agreement conditions means that—

(a) the tenure holder has agreed in writing to the carrying out of the activity; and

(b) a copy of the agreement has been lodged; and

(c) the agreement is still in force.

184A Annual rent

(1) A data acquisition authority holder must pay the State the rent, as prescribed under a regulation.

Note—

See also section 588 (Interest on amounts owing to the State other than for petroleum royalty).

(2) The rent must be paid in the way, and on or before the day, prescribed under a regulation.

Part 4 Water rights for petroleum tenures

185 Underground water rights—general

(1) The holder of a petroleum tenure may take or interfere with underground water in the area of the tenure if the taking or interference happens during the course of, or results from, the carrying out of another authorised activity for the tenure.

Examples—

- underground water necessarily or unavoidably taken during the drilling of a petroleum well or water observation bore
- underground water necessarily or unavoidably taken during testing for petroleum production or petroleum production authorised under section 32 or 109

(2) The rights under subsection (1)—

(a) are the ***underground water rights*** for the petroleum tenure; and

(b) are subject to the tenure holder complying with the holder's underground water obligations.

(3) There is no limit to the volume of water that may be taken under the underground water rights.

(4) Underground water taken or interfered with, under subsection (1), from a petroleum well is ***associated water***.

(5) The tenure holder may use associated water for any purpose and within or outside the area of the tenure.

(6) In this section—

another authorised activity, for the petroleum tenure, means an authorised activity for the tenure under part 1, division 1 or part 2, division 1.

Not authorised—indicative only

Not authorised—indicative only

186 Underground water rights—limited additional rights

(1) This section applies to the holder of a petroleum tenure until—

(a) if the area of the tenure is in the area declared by gazette notice under the Water Act on 18 March 2011 to be a cumulative management area and referred to as the Surat Cumulative Management Area—the day 5 years after the commencement of this section; or

(b) if paragraph (a) does not apply—the day 2 years after the commencement of this section; or

(c) a water licence or water permit is granted to take or interfere with underground water under the Water Act, section 1277.

(2) The holder of a petroleum tenure may take or interfere with underground water in the area of the tenure for use in the carrying out of another authorised activity for the tenure.

Note—

After the relevant period provided for under subsection (1) ends, the holder must be authorised under the Water Act to take or interfere with the water.

(3) The rights under subsection (2) are—

(a) also ***underground water rights*** for the petroleum tenure; and

(b) subject to the tenure holder complying with the holder's underground water obligations.

(4) The holder must, in accordance with the requirements prescribed by regulation, measure and report the volume of water taken under subsection (2) to the chief executive.

Maximum penalty—500 penalty units.

(5) In this section—

another authorised activity, for the petroleum tenure, means an authorised activity for the tenure under part 1, division 1 or part 2, division 1.

cumulative management area see the Water Act, schedule 4.

187 Water monitoring activities

(1) A petroleum tenure holder may carry out any of the following activities in the area of the holder's tenure to comply with its underground water obligations for the tenure—

(a) gathering information about, or undertaking an assessment of, a water bore;

(b) monitoring effects of the exercise of underground water rights for the tenure;

(c) constructing or plugging and abandoning a water observation bore;

(d) gathering information for preparing an underground water impact report or final report under the Water Act, chapter 3;

(e) carrying out any other activity necessary to comply with an underground water obligation of the holder.

(2) An activity mentioned in subsection (1) is a ***water monitoring activity***.

(3) In this section—

water bore see the Water Act, schedule 4.

188 Authorisation for Water Act

For the Water Act, the taking or interference with or the use of underground water, under the underground water rights, is taken to be authorised.

Note—

See the Water Act, section 808 (Unauthorised taking, supplying or interfering with water).

Not authorised—indicative only

Not authorised—indicative only

189 Water Act not otherwise affected

(1) To remove any doubt, it is declared that a petroleum tenure holder can not take or interfere with or use water unless the taking or interference or use is authorised under this part or the Water Act.

Note—

See the Water Act, chapter 2, part 2, division 1A and section 808.

(2) In this section—

water see the Water Act, schedule 4.

Part 5 Water monitoring authorities

Division 1 Obtaining water monitoring authority

190 Who may apply for water monitoring authority

(1) A petroleum tenure holder may apply for a water monitoring authority for stated land outside the area of the tenure to allow the holder to comply with the holder's underground water obligations for the tenure.

(2) The application may be made or granted—

(a) over land in the area of another petroleum authority; and

(b) for 1 or more petroleum tenures held by the same applicant.

191 Requirements for making application

The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

192 Deciding application for water monitoring authority

(1) The Minister may grant or refuse the water monitoring authority.

(2) However, the water monitoring authority must not be granted unless a relevant environmental authority for the water monitoring authority has been issued.

Note—

If the application relates to acquired land, see also section 30AC.

(3) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.

(4) The authority must state its area and each petroleum tenure to which it relates.

(5) The authority may also state—

(a) conditions or other provisions of the authority, other than conditions or provisions that are—

(i) inconsistent with division 2 or section 202 or 202A or any other mandatory condition for water monitoring authorities; or

Note—

Chapter 5 also imposes mandatory conditions on water monitoring authorities. In particular, see chapter 5, part 8.

(ii) inconsistent with a condition of any petroleum tenure to which the authority relates; or

(iii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the authority; and

(b) the day it takes effect.

(6) However, the provisions of the authority may exclude or restrict the carrying out of water monitoring activities, if the exclusion or restriction does not prevent the holder from complying with the holder's underground water obligations.

Not authorised—indicative only

Not authorised—indicative only

(7) The Minister may, as a condition of deciding to grant the authority, require the applicant to do all or any of the following within a stated reasonable period—

(a) pay the annual rent for the first year of the authority;

(b) give, under section 488, security for the authority.

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

Division 2 Key authorised activities

193 Operation of div 2

(1) This division provides for the key authorised activities for a water monitoring authority.

Notes—

1 For other authorised activities, see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2.

2 The carrying out of particular activities on particular land in a water monitoring authority's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the authorised activities is subject to—

(a) sections 6, 197 and 198; and

(b) chapter 3, part 4, division 2; and

(c) chapter 3A, part 5; and

(d) chapter 5; and

(e) the mandatory and other conditions of the authority; and

(f) any exclusion or restriction provided for in the authority on the carrying out of the activities.

194 Water monitoring activities

The authority holder may carry out any water monitoring activity in the area of the authority.

195 Limited right to take or interfere with underground water

The authority holder may take or interfere with underground water only to the extent that the taking or interference is the unavoidable result of carrying out a water monitoring activity in the area of the authority.

Example—

the taking of or interference with underground water during the drilling or maintenance of a water observation bore in the area

196 Authorisation for Water Act

For the Water Act, the taking of or interference with underground water, under section 195, is taken to be authorised.

Note—

See the Water Act, section 808 (Unauthorised taking, supplying or interfering with water).

197 Water Act not otherwise affected

To remove any doubt, it is declared that the water monitoring authority holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under this division or the Water Act.

Note—

See the Water Act, chapter 2, part 2, division 1A and section 808.

198 Restriction on carrying out authorised activities

In carrying out an authorised activity for the water monitoring authority, the holder must not interfere with the carrying out of an authorised activity for a petroleum tenure, or of another

Not authorised—indicative only

Not authorised—indicative only

water monitoring authority, the area of which includes the area of the authority.

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

199 No right to petroleum discovered

To remove any doubt, it is declared that the discovery of petroleum while carrying out an authorised activity for the authority does not, of itself, give the authority holder a right to the petroleum.

Division 3 Miscellaneous provisions

200 Term of authority

Subject to chapter 10, part 2, division 4, a water monitoring authority continues in force until there is no longer any petroleum tenure to which the authority relates.

201 Provision for who is the authority holder

(1) If there is only 1 petroleum tenure to which a water monitoring authority relates, the authority holder is taken to be the person who, from time to time, holds the petroleum tenure to which the authority relates.

(2) Subsections (3) and (4) apply if there is more than 1 petroleum tenure to which a water monitoring authority relates.

(3) If, as a result of dealings with the tenures, all of the tenures are transferred to the same person, the transferee is taken to be the holder of the authority.

(4) If, as a result of dealings with the tenures, 1 or more but not all of the tenures are transferred to the same person, the person from whom the tenures were transferred continues to be the holder of the water monitoring authority.

202 Additional condition of relevant petroleum tenure

If a condition is imposed on a water monitoring authority (the ***authority condition***), it is a condition of each petroleum tenure to which the authority relates that the tenure holder must comply with the authority condition.

202A Annual rent

(1) A water monitoring authority holder must pay the State the annual rent, as prescribed under a regulation.

(2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

203 Amending water monitoring authority by application

(1) The holder of a water monitoring authority may apply for the amendment of it—

(a) to increase or decrease its area; or

(b) to add or omit, or reflect an amendment of, a petroleum tenure that relates to the authority.

(2) The holder can not apply for the amendment of the authority in any other way.

(3) The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

(4) The Minister may grant or refuse the amendment.

Not authorised—indicative only

Not authorised—indicative only

(5) However, the Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.

(6) The amendment may be granted (a ***conditional grant***) subject to the applicant's written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate.

(7) On refusal of the application or the making of a decision to make a conditional grant, the applicant must be given an information notice about the decision to refuse or to make the conditional grant.

Part 6 Third party storage access to natural underground reservoirs

Division 1 Purpose of part

204 Purpose of pt 6

The purpose of this part is for the State to encourage appropriate use of natural underground reservoirs for storage.

Division 2 Storage agreements and related provisions

Subdivision 1 Storage agreements

205 Meaning of *storage agreement* and *existing user*

(1) A petroleum lease holder may agree (a ***storage agreement***) with someone else (an ***existing user***) to use a natural underground reservoir in the area of the lease to store petroleum or a prescribed storage gas.

Note—

See also section 220 (Preferred tenderer may make storage agreements).

(2) However, the lease holder can not enter into a storage agreement for any of the reservoir's storage capacity already agreed to be provided under another storage agreement.

(3) The existing user may agree with someone else to store petroleum or a prescribed storage gas in the reservoir to the extent of its storage capacity agreed to be used under the existing user's storage agreement with the lease holder.

(4) However, the existing user may make the agreement only if it complies with the storage agreement between the lease holder and the existing user.

(5) An agreement under subsection (3) is also a ***storage agreement***.

(6) A person for whom petroleum or a prescribed storage gas is, or is entitled to be, stored under a storage agreement under subsection (3) is also an ***existing user*** of the reservoir.

206 Development plan overrides storage agreement

If a provision of a storage agreement conflicts with the development plan for the relevant petroleum lease, the development plan prevails to the extent of the inconsistency.

207 Existing user's obligation to give information

Each existing user of a natural underground reservoir in the area of a petroleum lease must give the lease holder the information the holder reasonably requires for the safe and reliable use of the reservoir.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 2 Negotiation obligations of petroleum lease holders and existing users

208 Application of sdiv 2

(1) This subdivision applies to a petroleum lease holder or an existing user who has available storage capacity for a natural underground reservoir.

(2) A petroleum lease holder has ***available storage capacity*** for a natural underground reservoir if the reservoir is in the area of the lease and it has, or is likely to have, storage capacity that—

(a) the lease holder has not already agreed to provide under a storage agreement that is in force (the ***contracted capacity***); and

(b) does not interfere with the carrying out of authorised activities for the lease; and

(c) is either—

(i) spare; or

(ii) would, if additions of plant were made, or works carried out to increase the reservoir's storage capacity, be spare; and

Note—

Storage capacity mentioned in subparagraph (ii) is commonly called developable capacity.

(d) is technically and practicably feasible, safe and reliable to use.

(3) However, the contracted capacity, or a part of the contracted capacity, becomes available storage capacity again if—

(a) the existing user of the reservoir gives the lease holder a notice stating the user no longer requires that capacity; and

(b) the contracted capacity would otherwise be available storage capacity under subsection (2).

(4) A notice under subsection (3)(a) may be given for all or a stated part of the contracted capacity.

(5) An existing user of a natural underground reservoir has ***available storage capacity*** if the reservoir has, or is likely to have, storage capacity agreed to be provided to the existing user under a storage agreement that the existing user is not using and does not expect to use.

209 Obligation to negotiate with proposed users

(1) A person (a ***proposed user***) may give the lease holder or existing user a notice requiring the holder or existing user to, within a stated reasonable time, start negotiations to attempt to reach a storage agreement for available storage capacity for the reservoir.

(2) Subject to section 210, the holder or existing user must negotiate in good faith with the proposed user to attempt to reach a fair and reasonable storage agreement with the proposed user.

Maximum penalty for subsection (2)—500 penalty units.

210 Obligation about priority for proposed users

(1) If—

(a) a petroleum lease holder or existing user has started negotiations mentioned in section 209(2) (the ***first negotiations***) with a proposed user; and

(b) after the start of the first negotiations, the lease holder or existing user starts negotiations mentioned in section 209(2) (the ***second negotiations***) with another proposed user; and

(c) the first negotiations have not ended;

Not authorised—indicative only

Not authorised—indicative only

the lease holder or existing user must, as far as practicable, ensure the first negotiations are not unreasonably affected by the second negotiations.

Maximum penalty—500 penalty units.

(2) Despite subsection (1), the existing user has priority to negotiate for the storage capacity of the reservoir that will, when the storage agreement by the lease holder (the ***existing agreement***) ends, be available storage capacity for the lease holder.

(3) However, the priority under subsection (2)—

(a) applies only to the extent the storage capacity sought is no more than the existing user's entitlement under the existing agreement in the last year before it is to end according to its provisions; and

(b) ceases 2 years before the existing agreement ends.

211 Obligation to give information

(1) A proposed user may ask the lease holder or existing user for all information that—

(a) the lease holder or existing user has about the lease holder's or existing user's available storage capacity for the reservoir; and

(b) is reasonably necessary to allow the proposed user to negotiate a fair and reasonable storage agreement with the lease holder or existing user.

Examples of possible information about available storage capacity—

the amount of the storage capacity and details of the nature and quality of gas already stored in the reservoir

(2) The lease holder or existing user must—

(a) give the information within a reasonable period after receiving the request; and

(b) if the information has been sought by, or given to another proposed user—ensure it is given on a non-discriminatory basis.

Maximum penalty—500 penalty units.

(3) For subsection (2)(b), information is given on a non-discriminatory basis if it is—

(a) the same, or substantially the same, information as that given to other proposed users; or

(b) not so different from information given to other proposed users as to disadvantage the proposed user.

(4) For subsection (3)(a), if the reservoir's available storage capacity has changed since someone else was given the information, the information given to the proposed user is taken to be substantially the same if, other than for differences that reflect the change, it is the same or substantially the same.

Division 3 Provisions for stored petroleum or prescribed storage gas after petroleum lease ends

Subdivision 1 Preliminary

212 Application of div 3

(1) This division applies if—

(a) a petroleum lease (the ***old lease***) ends; and

(b) a natural underground reservoir in the area of the old lease is, under a storage agreement, being used to store petroleum or a prescribed storage gas.

(2) For subsection (1)(a), if an application has been made to renew the old lease and the application is refused, the old lease does not end until the refusal takes effect.

Not authorised—indicative only

Not authorised—indicative only

(3) Subsection (1) applies even if the storage agreement has, under its own terms, ceased to have effect.

Subdivision 2 Claiming stored petroleum or prescribed storage gas

213 Notice to claim for stored petroleum or prescribed storage gas

(1) The Minister must by gazette notice, invite anyone who claims ownership of the stored petroleum or prescribed storage gas to make that claim by giving a notice that complies with subsection (2) (a ***notice of claim***).

(2) A notice of claim must—

(a) be lodged within 30 business days after the gazettal; and

(b) state details, and include evidence of, each of the following—

(i) any relevant storage agreement;

(ii) how the claimant became the owner of the stored petroleum or prescribed storage gas;

(iii) how much of the stored petroleum or prescribed storage gas is claimed;

(iv) steps taken by the claimant to recover the stored petroleum or prescribed storage gas during the term of the old lease; and

(c) be accompanied by the fee prescribed under a regulation.

214 Property in stored petroleum or prescribed storage gas if no notice of claim

If no notice of claim is lodged within the 30 business days, the stored petroleum and prescribed storage gas is taken to have

become the property of the State immediately after the old lease ended.

Note—

For property in other petroleum in the reservoir, see section 26.

Subdivision 3 Deciding claims

215 Deciding claims

(1) This section applies if within the 30 business days, a notice of claim is lodged.

(2) The Minister must decide whether, immediately before the old lease ended, the claimant owned any of the stored petroleum or prescribed storage gas.

(3) The Minister may decide that the claimant does not own any of the stored petroleum or prescribed storage gas if the Minister considers the claimant did not take reasonable steps to recover it during the term of the old lease.

(4) Subsection (3) applies even if the Minister would, other than for the subsection, have decided that the claimant owned the stored petroleum or prescribed storage gas immediately before the old lease ended.

(5) If it is decided that the claimant owns any of the stored petroleum or prescribed storage gas, the claimant is taken to have been its owner from when the old lease ended.

(6) On deciding a claimant does not own any of the stored petroleum or prescribed storage gas claimed, the claimant must be given an information notice about the decision.

216 State property in stored petroleum or prescribed storage gas to extent claims are not upheld

(1) If, under section 215, it is decided that no claimant owned any of the stored petroleum or prescribed storage gas, the gas is

Not authorised—indicative only

Not authorised—indicative only

taken to have become the property of the State immediately after the old lease ended.

(2) If, under section 215, it is decided that no claimant owned part of the stored petroleum or prescribed storage gas, that part is taken to have become the property of the State immediately after the old lease ended.

Subdivision 4 Dealing with upheld claims

217 Application of sdiv 4

This subdivision applies if, under section 215, it is decided any claimant owns any of the stored petroleum or prescribed storage gas.

218 Call for tenders required

The Minister must make a call for tenders under section 127 for a proposed petroleum lease the area of which includes the reservoir.

219 Requirement to notify change in ownership

(1) If the claimant ceases to own any of the stored petroleum or prescribed storage gas, the claimant must lodge a notice stating—

(a) the name and contact details of any new owner of the stored petroleum or prescribed storage gas; and

(b) how much of the stored petroleum or prescribed storage gas the new owner became the owner of.

(2) If the new owner, or anyone who subsequently acquires any of the stored petroleum or prescribed storage gas, ceases to own any of the stored petroleum or prescribed storage gas, the new owner or other person must lodge a notice under subsection (1).

(3) This section does not apply or ceases to apply if—

(a) the petroleum or prescribed storage gas ceases to be stored in the reservoir; or

(b) the claimant or any new owner is granted a petroleum lease the area of which includes the reservoir; or

(c) a storage agreement is made for the stored petroleum or prescribed storage gas to which agreement the claimant or any new owner is a party; or

(d) under section 226, the stored petroleum or prescribed storage gas becomes the property of the State.

220 Preferred tenderer may make storage agreements

(1) A preferred tenderer appointed for the call for tenders may enter into a storage agreement with the following persons, as if the preferred tenderer held the petroleum lease and the lease has taken effect—

(a) if no notices have been lodged under section 219—the claimant;

(b) if any notice has been lodged under section 219—any person who, according to notices lodged under that section, owns the stored petroleum or prescribed storage gas.

(2) A person with whom the preferred tenderer may, under subsection (1), enter into a storage agreement is a ***current owner*** of the stored petroleum or prescribed storage gas.

221 Negotiation notice

(1) This section applies if, as a result of the call for tenders, a petroleum lease (a ***non-owner lease***) is granted to someone other than a current owner of the stored petroleum or prescribed storage gas.

(2) The Minister must—

Not authorised—indicative only

Not authorised—indicative only

(a) give each current owner of the stored petroleum or prescribed storage gas a notice (a ***negotiation notice***) stating—

(i) who holds the non-owner lease; and

(ii) a period within which all current owners of the stored petroleum or prescribed storage gas have to reach a storage agreement with the holder; and

(b) give the holder a copy of the negotiation notice.

222 Obligation of holder to negotiate with current owners

On the giving of the negotiation notice to the non-owner lease holder, the holder must, in good faith, negotiate with all current owners of the stored petroleum or prescribed storage gas to attempt to reach a fair and reasonable storage agreement with them.

223 Taking of effect of non-owner lease

(1) This section applies despite section 123 and any provision of a non-owner lease.

(2) The non-owner lease does not take effect until the day of effect fixed by the Minister, as notified to its holder.

(3) The Minister must not fix the day of effect unless—

(a) the holder has lodged a notice stating that the holder has entered into a storage agreement with any current owner of stored petroleum or prescribed storage gas; or

(b) all current owners of the stored petroleum or prescribed storage gas have lodged a notice relinquishing their ownership of any of the stored petroleum or prescribed storage gas (an ***ownership relinquishment notice***); or

(c) the period stated in the negotiation notice has ended and the Minister is satisfied the holder has complied with section 222.

224 Cancellation of non-owner lease in particular circumstances

Subject to section 225, the non-owner lease is cancelled and is taken never to have had any effect if the Minister has not fixed the day of effect before the last of the following days—

(a) the day of the first anniversary of the grant of the non-owner lease;

(b) a later day stated in the non-owner lease.

225 Annual rent for non-owner lease

(1) This section applies despite section 155 or any provision of the non-owner lease.

(2) Annual rent under section 155 for a non-owner lease is payable from granting of the lease.

(3) If, under section 224, the non-owner lease is cancelled the rent is still payable from the grant until it was cancelled.

226 State property in stored petroleum or prescribed storage gas in particular circumstances

Any of the stored petroleum or prescribed gas that a current owner owns becomes the property of the State—

(a) if the current owner gives an ownership relinquishment notice for it; or

(b) on the fifth anniversary of the making of the decision under section 215, unless, before that anniversary—

(i) a petroleum lease the area of which includes the reservoir is granted; and

(ii) the lease takes effect.

Not authorised—indicative only

Not authorised—indicative only

227 Storage rent payable by current owner

(1) Each person who is a current owner of any of the stored petroleum or prescribed storage gas must pay the State rent for storing the stored petroleum or prescribed storage gas that the current owner owns from time to time.

(2) The rent is payable from when the person became the current owner of the stored petroleum or prescribed storage gas until the earlier of the following events to happen—

(a) the person ceases to be the current owner of any of the stored petroleum or prescribed storage gas;

(b) the taking effect of a petroleum lease the area of which includes the reservoir;

(c) under section 226, the stored petroleum or prescribed storage gas becomes the property of the State.

(3) The rent must be paid at the rate and in the way prescribed under a regulation.

Division 4 Regulatory provisions

228 Prohibition on actions preventing access

(1) A person must not engage in conduct for the purpose of preventing someone else from obtaining the use of a natural underground reservoir with available storage capacity in the area of a petroleum lease for storage of petroleum or a prescribed storage gas.

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) For subsection (1)—

(a) a person engages in conduct for a particular purpose if—

(i) the conduct is or was engaged in for the purpose or for a purpose including the purpose; and

(ii) the purpose is or was not an incidental or unintended consequence of the conduct engaged in; and

(b) a person may be found to have engaged in conduct for a purpose even though, after all the evidence has been considered, the existence of the purpose is ascertainable only by inference from the conduct of the person or of someone else or from other relevant circumstances.

(3) Subsection (2)(b) does not limit the way the purpose of a person may be established for subsection (1).

(4) In this section—

engage, in conduct, means doing, or refusing to do, an act.

Examples of engaging in conduct—

- refusing to supply a service
- without reasonable grounds, limiting or disrupting a service
- making, or giving effect to, a provision of an understanding
- requiring the giving of, or giving, a covenant

refusing to do, an act, includes—

(a) refraining, other than inadvertently, from doing the act; or

(b) making it known the act will not be done.

229 Orders to enforce prohibition on preventing access

(1) This section applies if, on application of a person, the District Court is satisfied someone else (the ***obstructor***) has engaged, is engaging, or proposes to engage, in conduct contrary to section 228.

(2) The court may make all or any of the following orders—

Not authorised—indicative only

Not authorised—indicative only

(a) an order granting an injunction, on terms the court considers appropriate—

(i) restraining the obstructor from engaging in the conduct; or

(ii) if the conduct involves failing to do something—requiring the obstructor to do the thing;

(b) an order directing the obstructor to compensate a person for loss or damage suffered by the person because of the conduct;

(c) another order the court considers appropriate.

(3) The court may make any other order, including an injunction, it considers appropriate against another person involved in the conduct.

(4) The grounds on which the court may decide not to make an order under this section include the ground that this part or a relevant storage agreement provides a more appropriate way of dealing with the issue.

Part 7 Commercial viability assessment

230 Minister's power to require commercial viability report

(1) The Minister may, by notice (a ***report requirement***), require a petroleum tenure holder to lodge a written report (a ***commercial viability report***) about all or a stated part of its area if—

(a) the holder is not producing petroleum in the area or stated part; and

(b) the Minister is of the opinion that—

(i) it may be commercially viable to produce or store petroleum in the area or stated part; or

(ii) it may, within the next 15 years, be commercially viable to produce or store petroleum in the area or stated part.

Note—

For the relevance of this period, see part 1, division 6.

(2) The notice must state each of the following—

(a) the Minister's opinion under subsection (1)(b)(i) or (ii);

(b) the facts and circumstances forming the basis for the opinion;

(c) that the Minister requires the holder to give the Minister a commercial viability report about the area;

(d) a reasonable period for giving the report.

Note—

For other relevant provisions about giving a document to the Minister, see section 851AA.

231 Required content of commercial viability report

(1) A commercial viability report must do all of the following—

(a) identify each natural underground reservoir in the area the subject of the relevant report requirement;

(b) give an estimate of the amount of petroleum in each reservoir;

(c) state the standards and procedures used to make the estimate;

(d) state whether, in the opinion of the relevant petroleum tenure holder, it is commercially viable to produce or store petroleum in the area;

(e) if the holder's opinion is that it is not commercially viable to produce or store petroleum in the area—state whether, in the holder's opinion, it will, within the next 15 years, be commercially viable to produce or store petroleum in the area;

Not authorised—indicative only

Not authorised—indicative only

(f) give data, and an analysis of the data, that supports each opinion.

(2) The supporting data and analysis must include—

(a) technical data relating to the geology of, and natural underground reservoirs in the area; and

(b) market and financial data relevant to the opinions.

232 Minister's power to obtain independent viability assessment

(1) This section applies for a petroleum tenure, whether or not its holder has lodged a commercial viability report about the tenure.

(2) The Minister may obtain an independent assessment of the commercial viability of petroleum production or storage in all or part of the area of the tenure (an ***independent viability assessment***).

(3) However, before seeking the assessment, the Minister must give the holder a notice stating each of the following—

(a) that the Minister proposes to obtain the assessment;

(b) the Minister's reasons for seeking the assessment;

(c) the likely costs of obtaining the assessment;

(d) whether the State will, under section 233, seek to recover the costs;

(e) that the holder may, within a stated reasonable period, lodge submissions about the proposed assessment.

(4) Any submissions lodged by the holder within the stated period must be considered.

(5) The Minister must after receiving the assessment, give the holder a copy.

233 Costs of independent viability assessment

If—

(a) the Minister has incurred costs in obtaining, under section 232, an independent viability assessment about a petroleum tenure; and

(b) the notice under section 232 about the assessment stated that the State will seek to recover the costs; and

(c) the Minister has given the petroleum tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

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

Part 8 Petroleum activities coordination

234 Arrangement to coordinate petroleum activities

(1) The following persons may make an arrangement about a matter mentioned in subsection (2)—

(a) the holder of a 1923 Act lease;

(b) the applicant for, or the holder of, a petroleum lease;

(c) the applicant for, or the holder of, a mining lease.

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

(a) the orderly—

(i) production of petroleum from a natural underground reservoir under more than 1 of the leases; or

(ii) carrying out of an authorised activity for any of the leases by any party to the arrangement; and

Not authorised—indicative only

Not authorised—indicative only

(b) petroleum production from more than 1 natural underground reservoir under more than 1 of the leases.

(3) The arrangement may—

(a) be for any term; and

(b) if each holder of a relevant mining or petroleum lease agrees, provide for a matter that is inconsistent with, to the extent mentioned in subsection (3A), or not provided for under the leases or their conditions; and

(c) provide for—

(i) the subleasing of, or of an interest in, a relevant petroleum lease to a party to the arrangement or someone else; and

(ii) a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement.

(3A) For subsection (3)(b), the arrangement may only be inconsistent with 1 or more of the following—

(a) when a petroleum lease holder must start petroleum production under section 154(1);

(b) the development plan or the proposed development plan for a lease mentioned in subsection (1);

(c) the conditions of the lease imposed under—

(i) the 1923 Act, section 44(1)(d); or

(ii) section 123(3); or

(iii) the Mineral Resources Act, section 276(1)(m) or 276(3).

(4) A person other than the holder, or proposed holder, of a coordinated lease may also be a party to a coordination arrangement.

(5) A coordination arrangement has no effect unless it is approved by the Minister under section 236.

(6) In this section—

authorised activity, for—

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

(b) a 1923 Act lease, means an activity that, under the 1923 Act, is an authorised activity for the lease.

coordinated lease means—

(a) 2 or more petroleum leases; or

(b) 2 or more 1923 Act leases; or

(c) 1 or more petroleum leases and 1 or more 1923 Act leases, in any combination; or

(d) 1 or more mining lease and 1 or more petroleum leases or 1923 Act leases, in any combination.

Notes—

1 Under the Mineral Resources Act, a coal or oil shale mining lease holder has a limited entitlement to mine and use incidental coal seam gas, which is *petroleum*. See section 10 of this Act and the Mineral Resources Act, chapter 8, part 8, division 1.

2 A coordination arrangement may provide for mining or production from coextensive natural underground reservoirs. See section 114 and the Mineral Resources Act, section 318CQ.

production includes mining, extraction, production or release carried out under a mining lease.

235 Applying for ministerial approval of proposed coordination arrangement

(1) The parties to a proposed coordination arrangement may jointly apply for approval of the arrangement.

(2) The application must be—

(a) written; and

(b) accompanied by—

Not authorised—indicative only

Not authorised—indicative only

(i) the original or a certified copy of the proposed arrangement; and

(ii) the fee prescribed under a regulation.

(3) If the proposed arrangement is inconsistent with the current development plan for a relevant lease, the application must be accompanied by a proposed later development plan for the lease.

(4) If the proposed plan is for a relevant mining lease, the plan must comply with the later development plan requirements under the Mineral Resources Act.

Note—

See the Mineral Resources Act, section 318ED (Later development plan requirements).

(5) If the proposed plan is for a relevant 1923 Act lease, the plan must comply with the later development plan requirements under the 1923 Act.

236 Ministerial approval of proposed coordination arrangement

(1) The Minister may approve the proposed coordination arrangement only if—

(a) the Minister is satisfied—

(i) the arrangement is in the public interest; and

(ii) any inconsistency between the arrangement and a condition of a relevant lease and any sublease provided for under the arrangement is appropriate; and

(iii) if the arrangement applies to land that is in the area of a coal or oil shale mining tenement and in the area of a petroleum lease or 1923 Act lease—the arrangement clearly identifies the safety responsibilities of each party to the arrangement in relation to the land; and

(iv) the spatial relationship between the relevant leases for the arrangement is appropriate.

(b) for an application required to be accompanied by a proposed later development plan for a relevant lease—the proposed plan has been approved; and

(c) the arrangement is consistent with—

(i) the purpose of this Act; and

(ii) if any relevant lease is a mining lease—the purposes of chapter 3 and the objectives of the Mineral Resources Act.

Note—

See sections 3 (Main purpose of Act) and 295 (Main purposes of ch 3) and the Mineral Resources Act, section 2 (Objectives of Act).

(2) Also, if the proposed plan is for a relevant 1923 Act lease, the relevant provisions of that Act apply in relation to the proposed plan.

(3) The Minister may refuse to approve a proposed coordination arrangement that provides for a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement if the Minister considers that—

(a) having regard to the requirements under chapter 4, the pipeline licence would not be granted if the party were to apply for it; or

(b) not enough information has been given to decide whether the licence should be granted; or

(c) the spatial relationship between the leases is not appropriate for a coordination arrangement.

(4) If a relevant lease has not been granted, the approval does not take effect until the lease takes effect.

Not authorised—indicative only

Not authorised—indicative only

237 Approval does not confer right to renew

To remove any doubt, it is declared that if the term of a coordination arrangement is longer than the current term of any relevant lease, the approval of the arrangement does not impose an obligation or right to renew the lease.

238 Subleasing of 1923 Act lease provided for under coordination arrangement

On the approval of a coordination arrangement that provides for the subleasing of a 1923 Act lease, the sublease is taken to be a prescribed dealing approved by the Minister under the Common Provisions Act.

239 Coordination arrangement overrides relevant leases

(1) This section applies if there is a conflict between a coordination arrangement and a condition of a relevant lease.

(2) The arrangement prevails to the extent of the inconsistency.

(3) If a relevant lease holder has complied with the arrangement, the holder is taken to have complied with the condition to the extent that it is inconsistent with the arrangement.

(4) This section applies despite another provision of this Act, the 1923 Act or the Mineral Resources Act.

240 Grant of pipeline licence

(1) This section applies if a coordination arrangement provides for a party to the arrangement to be granted a pipeline licence to transport petroleum or a prescribed storage gas on land subject to the arrangement.

(2) The Minister may, if the party applies under chapter 4, part 2, grant the pipeline licence.

(3) Section 412 applies as if the application were a pipeline licence application.

(4) However, the provisions of the licence must be consistent with the arrangement.

241 Amendment or cancellation by parties to arrangement

(1) A coordination arrangement may be amended or cancelled by the parties to the arrangement only with the Minister's approval.

(2) A purported amendment or cancellation of a coordination arrangement by the parties to it has no effect unless it complies with subsection (1).

242 Minister's power to cancel arrangement

(1) The Minister may, by complying with subsections (2) and (3), cancel a coordination arrangement.

(2) If the Minister proposes to cancel the arrangement, the Minister must give each holder of a relevant lease a notice stating—

(a) that the Minister proposes to cancel the arrangement; and

(b) reasons for the proposed cancellation; and

(c) that the holder may lodge submissions within the stated period about the proposed cancellation or the likely impact of the cancellation on the relevant leases.

(3) Before cancelling the arrangement, the following must be considered—

(a) any submissions lodged by the holder within the stated period;

(b) the likely impact of the cancellation on the relevant leases;

(c) the public interest.

(4) If it is decided to cancel the arrangement, each of the holders must be given an information notice about the decision.

Not authorised—indicative only

Not authorised—indicative only

(5) The cancellation takes effect on the end of the appeal period for the decision to cancel, or if a later day of effect is stated in the information notice, on that day.

(6) When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.

243 Effect of cancellation

(1) The cancellation of a former coordination arrangement does not affect any relevant lease.

(2) Any sublease of a petroleum lease or a 1923 Act lease provided for under the arrangement is cancelled.

Part 10 General provisions for petroleum wells, water injection bores, water observation bores and water supply bores

Division 1 Restrictions on drilling

281 Requirements for drilling petroleum well

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

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) The requirements may include provisions to prevent the drilling adversely affecting the carrying out of safe and

efficient mining or future mining of coal under the Mineral Resources Act.

282 Restriction on who may drill water injection bore, water observation bore or water supply bore

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

Maximum penalty—300 penalty units.

(2) However, a petroleum tenure holder may drill a water injection bore, water observation bore or water supply bore in the area of the tenure if the holder complies with the requirements for drilling a water injection bore, water observation bore or water supply bore prescribed under a regulation.

(3) Also, a water monitoring authority holder may drill a water injection bore or water observation bore in the area of the authority if the holder complies with the requirements for drilling a water injection bore or water observation bore prescribed under a regulation.

Division 2 Converting petroleum well to water injection bore, water observation bore or water supply bore

282A Application of div 2

This division applies to a petroleum well in the area of a petroleum tenure that has been drilled as required under section 281, or decommissioned under section 292, on or after 1 January 2012.

Not authorised—indicative only

Not authorised—indicative only

283 Restrictions on making conversion

(1) The petroleum tenure holder may convert the petroleum well to a water injection bore, water observation bore or water supply bore only if—

(a) the holder lodges—

(i) a well completion report for the well; and

(ii) a notice in the approved form that the holder intends to convert the petroleum well to a water injection bore, water observation bore or water supply bore; and

(b) the holder complies with requirements prescribed under a regulation for converting the petroleum well to a water injection bore, water observation bore or water supply bore.

Maximum penalty—500 penalty units.

(2) The approved form must require the holder to state the day on which the petroleum well will be converted to a water injection bore, water observation bore or water supply bore.

(3) In this section—

well completion report means a well completion report that a regulation requires a petroleum tenure holder to lodge under section 553(1)(b).

284 Notice of conversion

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

Maximum penalty—50 penalty units.

284A Time of conversion

(1) The petroleum well is taken to be converted to a water injection bore, water observation bore or water supply bore on the earlier of the following—

(a) the day stated in the approved form under section 283;

(b) the day the notice under section 284 is lodged.

(2) However, if the holder fails to give notice under sections 283 and 284, the petroleum well is taken to be converted to a water injection bore, water observation bore or water supply bore immediately after the well is converted.

Division 3 Transfers of petroleum wells, water injection bores, water observation bores and water supply bores

Subdivision 1 General provisions

285 Operation of div 3

(1) This division permits, in particular circumstances, the transfer of the following in relation to a petroleum well, water injection bore, water observation bore or water supply bore—

(a) the control of, and responsibility for, the well or bore;

(b) the ownership of any works constructed in connection with the well or bore.

Note—

For the ownership of works mentioned in paragraph (b) generally, see section 542.

(2) In this division, a ***transfer*** of a petroleum well, water injection bore, water observation bore or water supply bore is a reference to a transfer in relation to the well or bore mentioned in subsection (1).

Not authorised—indicative only

Not authorised—indicative only

286 Transfer only permitted under div 3

A purported transfer of a petroleum well, water injection bore, water observation bore or water supply bore is of no effect unless—

(a) the transfer is permitted under this division; and

(b) the requirements under this subdivision for making the transfer have been complied with.

287 Effect of transfer

(1) If a petroleum well, water injection bore, water observation bore or water supply bore is transferred under this division, any obligation the transferor had under this Act or another law in relation to the well or bore ceases.

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

Note—

For transfers by the State, see section 294.

Subdivision 2 Permitted transfers

288 Transfer of water injection bore, water observation bore or water supply bore to landowner

(1) A petroleum tenure holder may, by complying with the requirements under subsection (3), transfer a water injection bore, water observation bore or water supply bore in the area of the tenure to the landowner.

Note—

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

(2) A water monitoring authority holder may, by complying with the requirements under subsection (3), transfer a water

injection bore or water observation bore in the area of the authority to the landowner.

(3) For subsections (1) and (2), the requirements are that each of the following have been lodged—

(a) a notice in the approved form;

(b) the transfer fee prescribed under a regulation.

(4) The approved form must require—

(a) a statement by the holder transferring the bore that—

(i) if the bore has been drilled under section 282—section 282 has been complied with for the bore; or

(ii) if the bore has been converted from a petroleum well under section 283—section 283 has been complied with for the bore; and

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

(5) In this section—

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

288A Transfer of water observation bore to State

(1) A petroleum tenure holder or water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the State if—

(a) the holder gives the chief executive a notice, in the approved form, offering to transfer the bore to the State; and

(b) the chief executive receives the notice no later than 60 business days before the holder must, as required under section 292, decommission the bore; and

(c) the chief executive, within 20 business days after receiving the notice, gives the holder notice that the State consents to the transfer.

Not authorised—indicative only

Not authorised—indicative only

(2) The approved form must require a statement by the holder transferring the bore that, if the bore was drilled under section 282, that section has been complied with for the bore.

(3) If the chief executive gives the holder a notice under subsection (1)(c), the notice must state the day the transfer takes effect.

(4) If the chief executive does not give the holder a notice under subsection (1)(c), the holder must, as required under section 292, decommission the bore.

289 Transfer of petroleum well to holder of geothermal tenure or mining tenement

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

(a) the well is in the geothermal tenure's or mining tenement's area; and

(b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged.

290 Transfer of water observation bore to petroleum tenure or water monitoring authority holder

(1) A petroleum tenure holder or water monitoring authority holder may transfer a water observation bore in the area of the tenure or authority to the holder of another petroleum tenure or water monitoring authority if—

(a) the bore is in the area of the other tenure or authority; and

(b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged.

(2) The approved form must require a statement by the holder transferring the bore that section 282 has been complied with for the bore.

Subdivision 3 Notice of transfer

291 Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

(1) If a transfer is made under section 288, the chief executive must give the Water Act regulator notice of the transfer.

(2) If a transfer is made under section 289, the chief executive must give the chief executive that administers the Mineral Resources Act notice of the transfer.

(3) A failure to comply with subsection (1) or (2) does not invalidate or otherwise affect the transfer.

Division 4 Decommissioning of petroleum wells, water injection bores, water observation bores and water supply bores

292 Obligation to decommission

(1) This section applies to a person (the ***responsible person***) who holds a petroleum tenure on which there is a petroleum well, water injection bore, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder, unless the well or bore has, under division 3, been transferred to someone else.

(2) The responsible person must ensure the well or bore is decommissioned from use under this Act before—

(a) the tenure or authority ends; or

(b) the land on which the well or bore is located ceases to be in the area of the tenure or authority.

Maximum penalty—500 penalty units.

Not authorised—indicative only

Not authorised—indicative only

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) However, subsection (2) does not apply—

(a) for land that, under section 101(1), ceases to be in the area of an authority to prospect; or

(b) if the tenure or authority ends because it is divided under this chapter; or

(c) for a petroleum well—

(i) if a GHG tenure is granted; and

(ii) the GHG tenure's area includes the well; and

(iii) the petroleum tenure holder and the GHG tenure holder have agreed in writing that the GHG tenure holder is to assume responsibility for the well; and

(iv) a copy of the agreement has been lodged.

(4) For subsection (2), the well or bore is decommissioned from use under this Act only if—

(a) it has been plugged and abandoned in the way prescribed under a regulation; and

(b) for a bore—the decommissioning complies with the Water Act, sections 816 and 817; and

(c) the responsible person has given the chief executive a notice, in the approved form, about the decommissioning of the well or bore.

Note—

For the power of an authorised person to ensure compliance, see section 580.

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

293 Right of entry to facilitate decommissioning

(1) This section applies if—

(a) a responsible person under section 292 has not carried out decommissioning on land as required under that section; and

(b) the relevant petroleum tenure or water monitoring authority has ended or the land on which the well or bore is located is no longer in the area of the tenure or authority.

(2) The responsible person may enter the following land to carry out the decommissioning—

(a) land (the ***primary land***) on which the decommissioning must be, or was required to be, carried out;

(b) any other land (the ***access land***) it is reasonably necessary to cross for access to the primary land.

(3) The Common Provisions Act, chapter 3, parts 2, 3 and 6 and part 7, divisions 1, 2 and 5 (other than subdivision 3) applies to the responsible person, in the following way—

(a) if the tenure or authority has ended, as if—

(i) it were still in force; and

(ii) the person is its holder;

(b) as if the primary land and access land is in the area of the tenure or authority;

(c) as if the decommissioning is an authorised activity for the tenure or authority.

294 Responsibility for well or bore after decommissioning

(1) This section applies if a petroleum tenure holder or water monitoring authority holder has, under section 292, decommissioned a petroleum well, water injection bore, water observation bore or water supply bore.

Not authorised—indicative only

Not authorised—indicative only

Note—

For ownership before decommissioning, see section 542.

(2) Despite the decommissioning, the holder continues to be responsible under this Act for the well or bore until the earlier of the following times (the ***relevant time***)—

(a) when the tenure or authority ends;

(b) when the land on which the well or bore is located ceased to be in the area of the tenure or authority.

(3) At the relevant time the well or bore is taken to have been transferred to the State.

(4) Subsection (3) applies despite—

(a) the well or bore being on or part of land owned by someone else; or

(b) the sale or other disposal of the land.

(5) After the relevant time, the State may transfer the well or bore.

(6) However—

(a) the transfer from the State can only be to—

(i) the owner of the land on which the well or bore is located; or

(ii) the holder of a geothermal tenure or mining tenement the area of which includes that land; and

(b) the transfer from the State and the use of the well or bore by the transferee is subject to this Act and any other relevant Act or law.

Division 5 Remediation activity

294A Definitions for div 5

In this part—

authorised person means a person authorised by the chief executive, under section 294B, to carry out a remediation activity.

lower flammability limit means the smallest amount of gas that supports a self-propagating flame when mixed with air (or oxygen) and ignited.

remediation activity see section 294B.

294B Authorised person to carry out remediation activities

(1) The chief executive may authorise a person to remediate any of the following bores or wells and to rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation (the ***remediation activity***)—

(a) a bore or well posing a risk to life or property;

(b) a bore or well the chief executive reasonably believes is a legacy borehole;

(c) a bore or well on fire or emitting gas causing a gas concentration in the surrounding air greater than the lower flammability limit.

(2) In this section—

remediate, a bore or well, includes plug and abandon the bore or well.

294C Entering land to carry out remediation activities

(1) This section applies to the following land—

(a) land (***primary land***) on which a legacy borehole exists;

(b) land (***adjacent land***) that is adjacent to primary land if an authorised person has no other reasonably practicable way of entering the primary land without entering the adjacent land.

(2) An authorised person may enter land to carry out a remediation activity—

Not authorised—indicative only

Not authorised—indicative only

(a) if the remediation activity relates to a bore or well mentioned in section 294B(1)(a) or (c)—at any time; or

(b) otherwise—within a period of 10 business days starting on the earlier of the following days—

(i) the day the owner of the land is given notice of the entry under section 294D;

(ii) the day the occupier of the land is given notice of the entry under section 294D.

(3) However, subsection (2) does not authorise the entry of a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part.

294D Notice of entry

(1) An authorised person entering land under section 294C to carry out a remediation activity must give the owner and the occupier of the land written notice of the entry—

(a) if the remediation activity relates to a bore or well mentioned in section 294B(1)(a) or (c)—within 10 business days after the entry is made; or

(b) otherwise—before entering the land.

(2) The written notice must state the following—

(a) when the entry was, or is to be, made;

(b) the purpose of the entry;

(c) that the authorised person is permitted under this Act to enter the land without consent or a warrant;

(d) the remediation activity carried out or proposed to be carried out.

294E Obligation of authorised person in carrying out remediation activity

An authorised person who enters land under this part—

(a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and

(b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

294F Application of particular safety Acts to remediation activity

(1) The place at which a remediation activity is authorised to be carried out is taken to be a coal mine, to which the *Coal Mining Safety and Health Act 1999* applies, if the authorised person ordinarily carries out similar activities under that Act.

(2) The place at which a remediation activity is authorised to be carried out is taken to be a mine, to which the *Mining and Quarrying Safety and Health Act 1999* applies, if the authorised person ordinarily carries out similar activities under that Act.

(3) The place at which a remediation activity is authorised to be carried out is taken to be an operating plant under this Act if the authorised person ordinarily carries out similar activities under this Act.

Not authorised—indicative only

Not authorised—indicative only

Chapter 3 Provisions for coal seam gas

Part 1 Preliminary

Division 1 Introduction

297 Relationship with chs 2 and 5 and ch 15, pt 3 and the Common Provisions Act

(1) Requirements and restrictions under this chapter apply as well as any relevant requirements under chapters 2 or 5 or chapter 15, part 3 or the Common Provisions Act.

(2) If this chapter imposes a requirement for or a restriction on the granting, renewal, division or transfer of a petroleum tenure, the tenure can not be granted, renewed, divided or transferred if the restriction applies or if the requirement has not been complied with.

(3) If this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a petroleum tenure or data acquisition authority, despite chapter 2, the activity is not an authorised activity for the tenure while the restriction applies or if the requirement has not been complied with.

(4) If a provision of this chapter conflicts with a provision of chapter 2 or 5 or chapter 15, part 3 or the Common Provisions Act, the provision of this chapter prevails to the extent of the inconsistency.

298 Description of petroleum leases for ch 3 and ch 15, pt 3

Despite schedule 2, definitions *block* and *sub-block* and any provision of this chapter or chapter 15, part 3, a petroleum lease applied for or granted under this chapter may be described in metes and bounds.

Division 2 Definitions for chapter 3

299 What is *coal seam gas* and *incidental coal seam gas*

(1) ***Coal seam gas*** is petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

(2) ***Incidental coal seam gas*** is incidental coal seam gas as defined under the Mineral Resources Act, section 318CM(2).

300 What is *oil shale*

Oil shale is any shale or other rock (other than coal) from which a gasification or retorting product may be extracted or produced.

301 What is a *coal exploration tenement* and a coal mining lease

(1) A ***coal exploration tenement*** is an exploration permit or mineral development licence under the Mineral Resources Act granted for coal.

(2) A ***coal mining lease*** is—

(a) a mining lease for coal; or

(b) a special coal mining lease granted under any of the following Acts, an agreement provided for under any of the Acts or any amendment of an agreement provided for under any of the Acts—

(i) the *Central Queensland Coal Associates Agreement Act 1968*;

(ii) the *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts 1962* to *1965*; or

(c) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of coal

Not authorised—indicative only

Not authorised—indicative only

mining, whether or not it is also granted for a purpose other than coal mining.

(3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

(4) However, for parts 1 to 5—

(a) a coal exploration tenement does not include an exploration permit or mineral development licence granted for coal to which the Common Provisions Act, chapter 4, applies; and

(b) a coal mining lease does not include a mining lease granted for coal to which the Common Provisions Act, chapter 4, applies.

302 What is an *oil shale exploration tenement* and an *oil shale mining lease*

(1) An ***oil shale exploration tenement*** is an exploration permit or mineral development licence granted for oil shale.

(2) An ***oil shale mining lease*** is—

(a) a mining lease for oil shale; or

(b) a specific purpose mining lease for a purpose associated with, arising from or promoting the activity of oil shale mining, whether or not it is also granted for a purpose other than oil shale mining.

(3) Subsections (1) and (2)(a) apply whether or not the lease, permit or licence is also granted for another mineral.

303 What is a *coal or oil shale mining tenement*

A ***coal or oil shale mining tenement*** is—

(a) a coal exploration tenement; or

(b) an oil shale exploration tenement; or

(c) a coal or oil shale mining lease.

303A What is a *petroleum tenure*

For parts 1 to 5—

(a) a petroleum lease does not include a petroleum lease to which the Common Provisions Act, chapter 4, applies; and

(b) an authority to prospect does not include an authority to prospect to which the Common Provisions Act, chapter 4, applies.

Part 2 Obtaining petroleum lease over land in area of coal or oil shale exploration tenement

Division 1 Obtaining petroleum lease other than by or jointly with, or with the consent of, coal or oil shale exploration tenement holder

Subdivision 1 Preliminary

304 Application of div 1

(1) This division applies if—

(a) land is in the area of a coal or oil shale exploration tenement; and

(b) a person, who, under section 117, may make an ATP-related application for all or part of the land wishes to make that application.

(2) However, this division does not apply if—

(a) the person is the tenement holder; or

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Not authorised—indicative only

(b) if the application is to be made jointly with the tenement holder; or

(c) the application is made with the tenement holder's written consent; or

(d) the coal or oil shale exploration tenement is a mineral (f) pilot tenure.

Note—

For the circumstances mentioned in subsection (2), see division 2.

Subdivision 2 Provisions for making petroleum lease application

305 Additional requirements for making application

(1) The ATP-related application must include the following—

(a) a statement (a ***CSG statement***) that complies with section 306;

(b) other information that addresses the matters mentioned in subsection (2) (the ***CSG assessment criteria***), other than the matter mentioned in subsection (2)(e)(iii).

(2) The CSG assessment criteria are—

(a) the requirements of chapter 9; and

(b) the initial development plan requirements; and

(c) the additional requirements under part 6 for proposed initial development plans; and

(d) the legitimate business interests of the applicant and the coal or oil shale exploration tenement holder (the ***parties***); and

Examples of a party's legitimate business interests—

- contractual obligations
- the effect on, and use of, existing infrastructure or mining or production facilities

- exploration expenditure on relevant overlapping tenures

(e) the effect of the proposed petroleum lease on the future development of coal or oil shale resources from the land, including, for example, each of the following—

(i) the proposed timing and rate of petroleum production and the development of coal or oil shale resources from the land;

(ii) the potential for the parties to make a coordination arrangement about—

(A) petroleum production under the proposed petroleum lease; and

(B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land;

(iii) the attempts required of the applicant under section 310(1)(b) and any changes of the type mentioned in section 310(1)(c);

(iv) the economic and technical viability of the concurrent or coordinated petroleum production and the development of any coal or oil shale resources in the land;

(v) the extent, nature and value of petroleum production and the development of any coal or oil shale resources in the land; and

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

(3) The proposed development plan included in the application must also comply with part 6.

306 Content requirements for CSG statement

(1) A CSG statement must—

(a) assess—

Not authorised—indicative only

Not authorised—indicative only

(i) the likely effect of proposed petroleum production on the future development of coal or oil shale resources from the land; and

(ii) the technical and commercial feasibility of coordinated petroleum production and coal or oil shale mining from the land; and

(b) include an overview of a proposed safety management system for all operating plant, or proposed operating plant, for proposed petroleum production under the lease that may affect possible future safe and efficient mining under a coal or oil shale mining lease.

(2) The proposed safety management system must—

(a) for activities of the plant that may affect future safe and efficient mining of coal, comply with the requirements under sections 675 and 705C for a safety management system; and

(b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient mining under a future mining lease.

Subdivision 3 Provisions for applications in particular circumstances

307 Applications relating to exploration tenement and mining lease not held by same person

(1) This section applies if a person to whom this division applies wishes to make an application to which this division applies—

(a) for land in the area of each of the following—

(i) the coal or oil shale exploration tenement (the ***exploration tenement part***);

(ii) a coal or oil shale mining lease (the ***mining lease part***); and

(b) the exploration tenement and the mining lease are not held by the same person.

Note—

If the coal or oil shale exploration tenement and the coal or oil shale mining lease are held by the same person, see section 344(3).

(2) The person may make separate ATP-related applications for the exploration tenement part and the mining lease part.

(3) A separate application for the exploration tenement part, or the part of an application that relates to the exploration tenement part, must be decided under this division.

(4) A separate application for the mining lease part, or the part of an application that relates to the mining lease part, must be decided under part 3.

308 Applications relating to other land

(1) This section applies if—

(a) a person to whom this division applies wishes to make an application to which this division applies; and

(b) the proposed application includes land (the ***other part***) not in the area of a coal or oil shale mining tenement.

(2) The person may lodge a separate ATP-related application for the other part.

(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.

Subdivision 4 Obligations of applicant and coal or oil shale exploration tenement holder

310 Applicant's obligations

(1) The applicant must—

Not authorised—indicative only

Not authorised—indicative only

(a) within 10 business days after making the ATP-related application, give the coal or oil shale exploration tenement holder a copy of the application, other than any part of the application that relates to the capability criteria; and

(b) use reasonable attempts to—

(i) consult with the tenement holder about the applicant's proposed development plan and proposed safety management system; and

(ii) make an appropriate arrangement with the tenement holder about advanced testing carried out, or proposed to be carried out, by the tenement holder (a ***testing arrangement***); and

Example of advanced testing—

bulk sampling

Note—

See also part 8 (Confidentiality of information).

(c) change the proposed plan or system to give effect to any reasonable proposal by the tenement holder that will optimise the safe and efficient production of—

(i) petroleum under the proposed petroleum lease; and

(ii) coal or oil shale under any future mining lease over the land; and

(d) within 4 months after the making of the application, lodge a notice stating each of the following—

(i) the details of the consultation;

(ii) the results of the consultation;

(iii) any comments the applicant wishes to make about any submissions lodged by the tenement holder, under section 314;

(iv) any changes to the proposed development plan or proposed safety management system;

(v) if a testing arrangement has been made—details of the arrangement;

(vi) if a testing arrangement has not been made—details of the attempts made to make a testing arrangement;

(vii) the applicant's assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—

(A) petroleum production under the proposed petroleum lease; and

(B) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease over the land.

(2) However, the obligations under subsection (1)(b)(ii) and (c) apply only to the extent the provisions or arrangement are commercially and technically feasible for the applicant.

(3) For subsection (1)(b)(ii), if the exploration tenement is an exploration permit, it is appropriate for the agreement to give the permit holder the right to carry out advanced testing to satisfy the Minister under the Mineral Resources Act, section 186(6)(a).

(4) However, subsection (3) does not require the applicant to agree to testing having a duration of more than 12 months.

311 Minister may require further negotiation

(1) The Minister may, after receiving the notice under section 310(1)(d), require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to—

(a) making a testing arrangement mentioned in section 310(1)(b)(ii); or

(b) making changes of a type mentioned in section 310(1)(c).

Not authorised—indicative only

Not authorised—indicative only

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

312 Consequence of applicant not complying with obligations or requirement

If the Minister is reasonably satisfied the applicant has not complied with an obligation under section 310 or 311, the ATP-related application may be refused.

313 Obligations of coal or oil shale exploration tenement holder

The coal or oil shale exploration tenement holder must—

(a) within 20 business days after receiving a copy of the application, give the applicant basic information the tenement holder has about the following that the applicant may reasonably need to comply with sections 305, 306 and 310—

(i) the type of exploration activities carried out, or proposed to be carried out under the tenement;

(ii) coal or oil shale resources in the land; and

(b) after receiving a copy of the ATP-related application, make reasonable attempts to reach an agreement with the applicant about the matters mentioned in section 310(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.

314 Submissions by coal or oil shale exploration tenement holder

(1) The coal or oil shale exploration tenement holder may lodge submissions about the ATP-related application.

(2) However, the submissions may be lodged only within 3 months after the holder is, under section 310(1)(a), given a copy of the application (the ***submission period***).

(3) The submissions may—

(a) state that the holder does not object to the granting of the proposed petroleum lease; and

(b) state that the holder does not wish any preference for the future development of coal or oil shale from the land (***coal or oil shale development preference***); and

(c) include information about all or any of the following—

(i) exploration carried out under the tenement;

(ii) the results of the exploration;

(iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; and

(d) include a proposal by the tenement holder for the development of coal or oil shale in the land; and

(e) include information relevant to the CSG assessment criteria; and

(f) include reasonable provisions for the safety management system for petroleum production under the petroleum lease.

(4) The holder must give the applicant a copy of the submissions.

(5) In deciding the ATP-related application, regard must be had to the submissions.

Subdivision 5 Priority for earlier coal or oil shale mining lease application or proposed application

315 Earlier coal or oil shale mining lease application

(1) The ATP-related application must not be decided if—

Not authorised—indicative only

Not authorised—indicative only

(a) before the making of the ATP-related application, a coal or oil shale mining lease application was made for the land; and

(b) the mining lease application complies with the Mineral Resources Act, sections 245 and 246, and any relevant provision of chapter 8 of that Act; and

(c) the mining lease application has not been decided.

(2) However, subsection (1) does not apply if—

(a) the ATP-related application was made in response to an invitation in a notice given under the Mineral Resources Act, section 318BG and the application was made within 6 months after the giving of the notice; or

(b) the coal or oil shale mining lease applicant has given written consent to the petroleum lease application.

Note—

See however the Mineral Resources Act, chapter 8, part 4 (Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision).

See also the Mineral Resources Act, section 318AY (Earlier petroleum lease application).

316 Proposed coal or oil shale mining lease for which EIS approval given

(1) The ATP-related application must not be decided if—

(a) before the making of the ATP-related application, an approval under the Environmental Protection Act, chapter 3, part 2, was granted for the voluntary preparation of an EIS for a project that is, or includes, a proposed coal or oil shale mining lease mining lease for the land; and

(b) the proponent for the EIS—

(i) is, or includes, the coal or oil shale exploration tenement holder; or

(ii) is someone else who has the tenement holder's consent.

(2) However, subsection (1) ceases to apply if—

(a) the proponent of the EIS does not make a coal or oil shale mining lease application for the land within 1 year after the granting of the approval; or

(b) a coal or oil shale mining lease application is made for the land within the period mentioned in paragraph (a) and—

(i) it does not comply with the Mineral Resources Act, sections 245 and 246, and any relevant provision of chapter 8 of that Act; or

(ii) it is decided; or

(c) the proponent for the EIS has given written consent to the petroleum lease application.

317 Proposed mining lease declared a coordinated project

(1) The ATP-related application must not be decided if—

(a) before the making of the ATP-related application, a coordinated project is declared for a proposed coal or oil shale mining lease for the land; and

(b) the proponent for the coordinated project—

(i) is, or includes, the coal or oil shale exploration tenement holder; or

(ii) is someone else who has the tenement holder's consent.

(2) However, subsection (1) ceases to apply if—

(a) the proponent of the coordinated project does not make a coal or oil shale mining lease application for the land within 1 year after the making of the declaration; or

Not authorised—indicative only

Not authorised—indicative only

(b) a coal or oil shale mining lease application is made for the land within the period mentioned in paragraph (a) and—

(i) it does not comply with the Mineral Resources Act, sections 245 and 246, and any relevant provision of chapter 8 of that Act; or

(ii) it is decided.

(c) the proponent of the coordinated project has given written consent to the petroleum lease application.

Subdivision 6 Ministerial decision about whether to give any preference to development of coal or oil shale resources

318 When preference decision is required

(1) This subdivision applies for the application only if the Minister is satisfied of each of the following—

(a) there is a resource or reserve (the ***deposit***) of coal or oil shale in the land;

(b) the deposit has been identified under the relevant code;

(c) there is the level of knowledge about the deposit, as prescribed under a regulation;

(d) the location, quantity, quality, geological characteristics and continuity of the deposit are known, or have been estimated or interpreted, from specific geological evidence and knowledge;

(e) there are reasonable prospects for the eventual economic mining of the deposit.

(2) However, this subdivision does not apply if—

(a) the coal or oil shale exploration tenement holder has not complied with section 313(a); or

(b) the tenement holder has, under section 314, lodged a submission stating that the holder does not wish any coal or oil shale development preference for the land; or

(c) the tenement holder has not lodged any submission under section 314 within the submission period.

(3) If the Minister decides that the Minister is not satisfied as mentioned in subsection (1), the tenement holder must be given notice of the decision.

(4) In this section—

relevant code means any of the following—

(a) the document called 'Australasian Code for Reporting of Mineral Resources and Ore Reserves (The JORC Code)' and incorporated guidelines, published by the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and Minerals Council of Australia (***JORC***), as amended and published from time to time;

(b) another document (however called) published by JORC that amends or replaces the code mentioned in paragraph (a);

(c) if a document mentioned in paragraph (a) or (b) stops being published—another similar document prescribed under a regulation.

Notes—

1 If the Minister is not satisfied as mentioned in subsection (1), the application can be decided under chapter 2.

2 If this subdivision does not apply because of subsection (2), the application can be decided under chapter 2 and subdivision 8.

319 Decision about whether to give any preference to development of coal or oil shale

(1) Subject to section 320, the Minister must decide whether to—

(a) grant the petroleum lease application; or

Not authorised—indicative only

Not authorised—indicative only

(b) give any coal or oil shale development preference for the land, in whole or part.

(2) The decision under subsection (1) is the ***preference decision***.

(3) In making the preference decision the CSG assessment criteria must be considered.

(4) If, under the Mineral Resources Act, chapter 8, part 2, division 6, petroleum development preference has been given for the land, the preference decision is taken to be not to give coal or oil shale development preference for any of the land.

320 Reference to Land Court before making preference decision

(1) Before making the preference decision—

(a) the chief executive must refer the application to the Land Court for it to make recommendations to the Minister about what the preference decision should be; and

(b) the Minister must consider the recommendations.

(2) The referral must be made by filing a notice in the approved form with the registrar of the Land Court.

(3) The referral starts a proceeding before the Land Court for it to make the recommendations.

(4) The parties to the proceeding are the applicant and the coal or oil shale exploration tenement holder.

(5) In making the recommendations—

(a) the CSG assessment criteria must be considered; and

(b) section 321 applies as if a reference in the section—

(i) to the Minister were a reference to the Land Court; and

(ii) to coal or oil shale development preference were a reference to recommending coal or oil shale development preference.

(6) The recommendations may also include recommendations about the conditions and term of the petroleum lease.

321 Restrictions on giving preference

(1) Coal or oil shale development preference, in whole or part, must not be given unless this section has been complied with.

(2) Coal or oil shale development preference may be given only if the Minister is satisfied of each of the following—

(a) on the basis of the submissions and the results of consultation lodged under sections 310 and 314, it is either not commercially or technically feasible or it is unlikely that the applicant and the coal or oil shale exploration tenement holder are able to make a future coordination arrangement about—

(i) petroleum production under the proposed petroleum lease; and

(ii) coal or oil shale mining and any incidental coal seam gas mining under any future mining lease for the land;

(b) that, having regard to the public interest, the public interest in the following would be best served by not granting a petroleum lease to the petroleum lease applicant first—

(i) petroleum production;

(ii) coal or oil shale mining and any incidental coal seam gas mining;

(c) if the coal or oil shale is a brownfield coal or oil shale resource—

(i) it is critical to the continuance of an existing mining operation or the efficient use of infrastructure related to the operation; and

Not authorised—indicative only

Not authorised—indicative only

(ii) the applicant's proposed development plan is incompatible with the future development of the resource;

(d) if the coal or oil shale is a greenfield coal or oil shale resource—

(i) it is commercially viable; and

(ii) coal or oil shale mining will, if a mining lease is granted to the tenement holder, start within 2 years after the grant of the lease.

(3) In this section—

brownfield coal or oil shale resource means coal or oil shale associated with, or adjacent to, an existing mining operation under the Mineral Resources Act.

greenfield coal or oil shale resource means coal or oil shale that is not associated with, or adjacent to, an existing mining operation under the Mineral Resources Act.

Subdivision 7 Process if preference decision is to give any preference to development of coal or oil shale resources

322 Application of sdiv 7

This subdivision applies only if, under section 318, a preference decision is required and that decision was to give coal or oil shale development preference for the whole or part of the land.

323 Notice to applicant and coal or oil shale exploration tenement holder

(1) The chief executive must give the applicant and the coal or oil shale exploration tenement holder notice of the preference decision.

(2) The notice must invite the tenement holder to, within 6 months after the giving of the notice (the ***mining lease application period***), apply for a mining lease for—

(a) if the preference is for all of the land—all of the land; or

(b) if the preference is for part of the land—that part.

324 Mining lease application for all of the land

(1) This section applies if the preference is for all of the land and, within the mining lease application period, the coal or oil shale exploration tenement holder applies for a mining lease for all of the land.

(2) A further step can not be taken to decide the ATP-related application until after the mining lease application has been decided.

Note—

See however the Mineral Resources Act, chapter 8, part 4 (Coal mining lease and oil shale mining lease applications in response to Petroleum and Gas (Production and Safety) Act preference decision).

(3) If the decision on the mining lease application is to grant a mining lease for all of the land, the ATP-related application is taken to have lapsed, unless the coal or oil shale exploration tenement holder has consented in writing to the application.

325 Mining lease application for part of the land

(1) This section applies if the coal or oil shale exploration tenement holder applies for a mining lease for part of the land within the mining lease application period.

(2) The person who made the ATP-related application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.

(3) Unless the amendment is made, a further step can not be taken to decide the ATP-related application until after the mining lease application has been decided.

Not authorised—indicative only

Not authorised—indicative only

(4) If—

(a) the amendment has not been made; and

(b) the decision on the mining lease application is to grant a mining lease for part of the land;

the person who made the ATP-related application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.

Note—

If the petroleum lease application is not amended, see section 350.

326 No mining lease application

If the coal or oil shale exploration tenement holder does not apply for a mining lease for any of the land within the mining lease application period, the ATP-related application may be decided.

Subdivision 8 Deciding petroleum lease

327 Application of sdiv 8

This subdivision applies if—

(a) the coal or oil shale exploration tenement holder has not complied with section 313(a); or

(b) the tenement holder has, under section 314, lodged a submission stating that the holder does not wish any coal or oil shale development preference for the land; or

(c) the tenement holder has not lodged any submission under section 314 within the submission period; or

(d) under section 318, a preference decision is required and—

(i) the preference decision was not to give coal or oil shale development preference for any of the land; or

(ii) the preference decision was to give coal or oil shale development preference for the whole or part of the land and, after subdivision 7 is complied with, the Minister decides to grant a petroleum lease for the land.

328 Additional criteria for deciding provisions of petroleum lease

(1) In deciding the provisions of the petroleum lease the following must also be considered—

(a) the CSG assessment criteria;

(b) the effect of the petroleum lease on safe and efficient mining of coal or oil shale under any adjacent lease;

(c) the effect on safe and efficient mining of coal or oil shale under any future coal or oil shale mining lease that arises from the coal or oil shale exploration tenement.

(2) Subsection (1) does not limit other matters that must be considered under chapter 2.

Note—

See sections 104 to 123, 133 and 134.

329 Power to impose relinquishment condition

(1) In deciding the provisions of the petroleum lease, a condition may be imposed that its holder is required, by a lodged notice, to relinquish a stated part or percentage of its area at stated times or intervals.

Note—

See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

Not authorised—indicative only

Not authorised—indicative only

(2) A condition mentioned in subsection (1) is a ***relinquishment condition***.

Note—

See also section 367 (Requirement for giving of copy of relinquishment report).

(3) This section does not limit any power under chapter 2 to impose conditions on the petroleum lease.

(4) A relinquishment under a relinquishment condition takes effect on the day after the notice is lodged.

330 Publication of outcome of application

(1) After the Minister decides whether to grant the petroleum lease, the chief executive must publish a notice about the outcome of the application in the gazette or another publication the Minister considers appropriate.

(2) The notice must state—

(a) whether the Minister decided to grant or not to grant the petroleum lease; and

(b) if the decision was to grant—any conditions of the petroleum lease other than the mandatory conditions; and

(c) if, under section 318, a preference decision was required and that decision was to give coal or oil shale development preference for the whole or part of the land—the decision, and the reasons for it.

(3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may, instead of publishing the condition, publish a statement about the intent of the condition.

Division 2 Petroleum lease application by or jointly with, or with the consent of, coal or oil shale exploration tenement holder

331 Application of div 2

(1) This division applies if—

(a) land is in the area of a coal or oil shale exploration tenement; and

(b) a person who, under section 117, may make an ATP-related application for all or part of the land wishes to make that application; and

(c) the tenement holder has consented to the making of the application.

(2) This division also applies if—

(a) land is in the area of a coal or oil shale exploration tenement; and

(b) a person as follows wishes to apply for a petroleum lease for all or part of the land—

(i) the coal or oil shale exploration tenement holder;

(ii) a person who wishes to make the application jointly with the holder; and

(c) a person mentioned in paragraph (b) has made a coal mining lease application or oil shale mining lease application for the land and the application is not for a specific purpose mining lease; and

(d) the purpose of the proposed petroleum lease application is to allow the use of incidental coal seam gas for a purpose other than a use or activity under the Mineral Resources Act, section 318CN(2)(a) or (b), or 318CNA(2)(a) or (b).

Not authorised—indicative only

Not authorised—indicative only

Note—

See the Mineral Resources Act, section 318CN (Use that may be made under mining lease of incidental coal seam gas).

(3) However, this division does not apply if land is in the area of a coal or oil shale exploration tenement that is a mineral (f) pilot tenure.

332 Right to apply for petroleum lease

(1) The person may apply for a petroleum lease for all or part of the land.

(2) The area of the proposed petroleum lease need not comply with section 168(4) to (7).

333 Requirements for making application

(1) The petroleum lease application must—

(a) comply with the requirements under section 118 for making an ATP-related application; and

(b) include—

(i) a CSG statement; and

Note—

See section 306 (Content requirements for CSG statement).

(ii) other information that addresses the CSG assessment criteria.

(2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.

334 No calls for tenders after application made

A call for tenders for a petroleum lease can not be made for the land if the petroleum lease application has not been decided.

335 Applications relating to exploration tenement and mining lease not held by same person

(1) This section applies if—

(a) a person to whom this division applies wishes to make an application to which this division applies for land in the area of each of the following—

(i) the coal or oil shale exploration tenement (the ***exploration tenement part***);

(ii) a coal or oil shale mining lease (the ***mining lease part***); and

(b) the exploration tenement and the mining lease are not held by the same person.

Note—

If the coal or oil shale exploration tenement and the coal or oil shale mining lease are held by the same person, see section 344(3).

(2) The person may make separate ATP-related applications for the exploration tenement part and the mining lease part.

(3) A separate application for the exploration tenement part, or the part of an application that relates to the exploration tenement part, must be decided under this division.

(4) A separate application for the mining lease part, or the part of an application that relates to the mining lease part, must be decided under part 3.

336 Applications relating to other land

(1) This section applies if a person to whom this division applies wishes to make an application to which this division applies and the proposed application includes land (the ***other part***) not in the area of a coal or oil shale mining tenement.

(2) The person may make a separate ATP-related application for the other part.

Not authorised—indicative only

Not authorised—indicative only

(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.

338 Priority for earlier mining lease application or proposed application

Division 1, subdivision 5, applies for the petroleum lease application.

339 Priority for deciding earlier petroleum lease application

If, before the making of the petroleum lease application—

(a) someone else has applied for a petroleum lease for the whole or part of the proposed area of the petroleum lease; and

(b) the other application complies with section 305;

the Minister must decide the other application first unless the petroleum lease applicant agrees otherwise.

340 Right to grant if particular requirements met

(1) This section applies subject to section 339.

(2) If the application is an ATP-related application, the Minister must grant the petroleum lease if—

(a) the applicant is an eligible person; and

(b) the coal or oil shale exploration tenement holder has consented to the grant; and

(c) the requirements for grant have been complied with.

(3) If the application is not an ATP-related application, the Minister must grant the petroleum lease if—

(a) the applicant is an eligible person; and

(b) either—

(i) the applicant has been granted a coal or oil shale mining lease over the proposed area of the petroleum lease; or

(ii) any preference decision required under the Mineral Resources Act for the coal or oil shale mining lease application has been made and, under section 271A of that Act, a decision has been made to grant the applicant a coal or oil shale mining lease for the land; and

Note—

For when a preference decision under the Mineral Resources Act is required, see section 318BA of that Act.

(c) the Minister is satisfied—

(i) the requirements for grant, other than the requirement under section 121(1)(c), have been complied with; and

(ii) the conditions of the coal or oil shale exploration tenement have been substantially complied with.

Note—

If the area of the petroleum lease includes overlapping ATP land, the authority holder's written agreement is needed to carry out any authorised activity under the lease other than an activity related to incidental coal seam gas. See part 5, division 1.

341 Provisions of petroleum lease

(1) If the petroleum lease application is granted, section 123 applies as if the application were an ATP-related application.

(2) In deciding the provisions of the petroleum lease, the following matters must also be considered—

(a) the provisions recommended for the relevant mining lease;

(b) the development plan for the relevant mining lease;

(c) if the area of the petroleum lease will include land (***overlapping ATP land***) in the area of, or excluded land

Not authorised—indicative only

Not authorised—indicative only

for, an authority to prospect or a 1923 Act ATP held by someone other than the petroleum lease holder—

(i) the legitimate business interests, rights and future development proposals of the authority to prospect holder; and

(ii) the likelihood of coordinated production of petroleum in relation to the overlapping ATP land being subject to an agreement under section 364(2).

(3) A relinquishment condition may be imposed.

Note—

See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

(4) Subsection (3) does not limit any power under chapter 2 to impose conditions on the petroleum lease.

Division 3 Petroleum lease applications in response to Mineral Resources Act preference decision

342 Additional ground for refusing application

(1) This section applies if—

(a) a petroleum lease application is made in response to an invitation given under the Mineral Resources Act, section 318BG; and

(b) the application is made within 6 months after the giving of the invitation.

Note—

If the application is not made within the 6 months, see the Mineral Resources Act, section 318BJ.

(2) The Minister may decide to refuse the application if satisfied the applicant has not, in a timely manner—

(a) taken any step in relation to the application required of the applicant under chapter 2 or this chapter; or

(b) satisfied the Minister about a matter that, under chapter 2 or this chapter, is required for the granting of the application.

(3) Subsection (2) does not limit another ground for refusing the application under chapter 2, this chapter or section 843A.

Part 3 Obtaining petroleum lease over land in area of coal or oil shale mining lease

Division 1 Exclusion of power to call for tenders

343 Exclusion

The Minister can not make a call for tenders for a petroleum lease for—

(a) land in the area of a coal or oil shale mining lease; or

(b) land that is the subject of an application for a coal or oil shale mining lease when the call for tenders is made.

Division 2 Petroleum lease application other than by or jointly with coal or oil shale mining lease holder

344 Application of div 2

(1) This division applies if a person wishes to make an application for a petroleum lease for all or part of land in the area of a coal or oil shale mining lease.

Not authorised—indicative only

Not authorised—indicative only

(2) However, this division does not apply if—

(a) the person is the mining lease holder; or

(b) the application is to be made jointly with the holder; or

(c) the application relates to land in the area of a coal or oil shale exploration tenement that is a mineral (f) pilot tenure.

(3) If—

(a) the land is also in the area of a coal or oil shale exploration tenement; and

(b) the same person holds the mining lease and the exploration tenement;

a reference in this division to the mining lease holder includes a reference to the exploration tenement holder.

Note—

If the coal or oil shale mining lease and the coal or oil shale exploration tenement are held by different persons, see section 307.

345 Additional requirements for making application

(1) The petroleum lease application must—

(a) comply with the requirements under section 118 for making an ATP-related application; and

(b) include a CSG statement.

Note—

See section 306 (Content requirements for CSG statement).

(2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.

346 Applications relating to other land

(1) This section applies if a person to whom this division applies wishes to make an application to which this division applies

and the proposed application includes land (the ***other part***) not in the area of a coal or oil shale mining lease.

(2) The person may make a separate petroleum lease application for the other part.

(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.

348 Notice to coal or oil shale mining lease holder

The applicant must, within 10 business days after making the application, give the coal or oil shale mining lease holder a copy of the application, other than any part of the application that relates to the capability criteria.

Note—

See also part 8 (Confidentiality of information).

349 Coal mining lease holder's or oil shale mining lease holder's obligation to negotiate

(1) The coal or oil shale mining lease holder must, after receiving the copy of the application, make reasonable attempts to reach a coordination arrangement with the applicant about the following matters that provides the best resource use outcome without significantly affecting the parties' rights or interests—

(a) petroleum production under the proposed petroleum lease;

(b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

Note—

For the extent to which coal seam gas production is permitted under the coal or oil shale mining lease, see the Mineral Resources Act, chapter 8, part 8, division 1.

(2) However, the obligation under subsection (1) applies only to the extent that a coordination arrangement is commercially and technically feasible for the mining lease holder.

Not authorised—indicative only

Not authorised—indicative only

350 Additional requirements for grant

(1) The application may be granted only if—

(a) the applicant has negotiated, with the coal or oil shale mining lease holder, a proposed coordination arrangement (a ***relevant arrangement***) about the following matters—

(i) petroleum production under the proposed petroleum lease;

(ii) coal or oil shale mining and any incidental coal seam gas under the mining lease; and

(b) the Minister has approved the relevant arrangement; and

(c) the applicant has made a safety management system for all operating plant on, or proposed to be on, the area of the proposed petroleum lease; and

(d) the mining lease holder has agreed to the safety management system and lodged a notice that the holder has agreed to the system.

(2) The Minister may decide to refuse the application if—

(a) the Minister is satisfied the applicant and the mining lease holder have, as required under section 349, made reasonable attempts to reach a relevant arrangement; and

(b) either—

(i) the mining lease holder has lodged a notice stating there are no reasonable prospects of a relevant arrangement being made; or

(ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the mining lease holder have had a reasonable opportunity to make a relevant arrangement.

Division 3 Petroleum lease application by or jointly with coal or oil shale mining lease holder

351 Application of div 3

This division applies if a person as follows wishes to apply for a petroleum lease for all or part of the land in the area of a coal or oil shale mining lease that is not a specific purpose mining lease—

(a) the coal or oil shale mining lease holder;

(b) a person who wishes to make the application jointly with the holder.

352 Right to apply for petroleum lease

(1) The person may apply for a petroleum lease for all or part of the land.

(2) The area of the proposed petroleum lease need not comply with section 168(4) to (7).

353 Requirements for making application

(1) The petroleum lease application must—

(a) comply with the requirements under section 118 for making an ATP-related application; and

(b) include a CSG statement.

Note—

See section 306 (Content requirements for CSG statement).

(2) The proposed initial development plan required under section 118 must, as well as complying with the initial development plan requirements, also comply with part 6, division 1.

Not authorised—indicative only

Not authorised—indicative only

354 Applications relating to other land

(1) This section applies if a person to whom this division applies wishes to make an application to which this division applies and the proposed application includes land (the ***other part***) not in the area of a coal or oil shale mining lease.

(2) The person may make a separate petroleum lease application for the other part.

(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.

356 Right to grant if particular requirements met

The Minister must grant the petroleum lease if—

(a) the applicant is an eligible person; and

(b) the Minister is satisfied—

(i) the requirements for grant, other than the requirement under section 121(1)(c), have been complied with; and

(ii) the conditions of the coal or oil shale mining lease have been substantially complied with.

Note—

If the area of the petroleum lease includes overlapping ATP land, the authority holder's written agreement is needed to carry out any authorised activity under the lease other than an activity related to incidental coal seam gas. See part 5, division 1.

357 Provisions of petroleum lease

(1) Section 123 applies to the granting of the lease as if the petroleum lease application were an ATP-related application.

(2) In deciding the provisions of the petroleum lease, the following matters must also be considered—

(a) the conditions of the relevant mining lease;

(b) the development plan for the relevant mining lease;

(c) if the area of the petroleum lease will include overlapping ATP land—

(i) the legitimate business interests, rights and future development proposals of the authority to prospect holder; and

(ii) the likelihood of coordinated production of petroleum in relation to the overlapping ATP land being subject to an agreement under section 364(2).

(3) A relinquishment condition may be imposed.

Note—

See however section 368 (Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement).

(4) Subsection (3) does not limit any power under chapter 2 to impose conditions on the petroleum lease.

Part 4 Additional provisions for authorities to prospect and data acquisition authorities

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

358 Provisions for authority to prospect

(1) The Mineral Resources Act does not limit or otherwise affect the power under this Act to grant an authority to prospect over land (the ***overlapping land***) in the area of a coal or oil shale exploration tenement.

Not authorised—indicative only

Not authorised—indicative only

(2) However, an authorised activity for the authority to prospect can not be carried out on the overlapping land if—

(a) carrying it out adversely affects the carrying out of an authorised activity for the coal or oil shale exploration tenement; and

(b) the authorised activity for the coal or oil shale exploration tenement has already started.

Division 2 Restriction on authorised activities on coal mining lease or oil shale mining lease land

359 Application of div 2

This division applies if land in the area of a coal or oil shale mining lease is—

(a) in the area of an authority to prospect; or

(b) subject to a data acquisition authority.

360 Restriction

(1) An authorised activity for the authority may be carried out on the land only if—

(a) the mining lease holder has agreed in writing to the carrying out of the activity and to the safety management system of the authority holder; and

(b) a copy of the agreement has been lodged; and

(c) the agreement is still in force.

Note—

See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

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

Division 3 Exceptions to particular area provisions

361 Exceptions

Section 98(4) and 101 do not apply for an authority to prospect if the petroleum lease is granted under part 2, division 2 or part 3, division 3.

Division 4 Conditions

362 Notice to coal or oil shale exploration tenement holders and applicants

(1) This section applies if, when an authority to prospect is granted, land in the area of the authority is in the area of a coal or oil shale exploration tenement or a proposed area under a coal or oil shale exploration tenement application.

(2) It is a condition of the authority that its holder must, within 20 business days after the holder receives notice of the grant, give the tenement holder or the applicant notice stating—

(a) that the authority has been granted; and

(b) the authority holder's name; and

(c) the term of the authority.

363 Compliance with obligations under Mineral Resources Act

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

Not authorised—indicative only

Not authorised—indicative only

Part 4A Additional provisions if overlapping mineral (f) pilot tenure

Division 1 Preliminary

363A Definitions for pt 4A

In this part—

MDLA 407 see section 363B(2).

mineral (f) pilot tenure see section 363B(1).

mineral (f) production tenure, for overlapping mineral (f) land, means a tenure that authorises the production of mineral (f) for the land.

mineral (f) tenure means a mineral (f) pilot tenure or a mineral (f) production tenure.

overlapping mineral (f) land see section 363B(1).

363B Application of pt 4A

(1) This part applies to land (***overlapping mineral (f) land***) in the area of—

(a) mineral development licence 309, 374 or 385 (a ***mineral (f) pilot tenure***); or

(b) any mineral (f) production tenure granted for land in the area of a mineral development licence mentioned in paragraph (a).

(2) This part also applies to land the subject of mineral development licence application 407 (***MDLA 407***).

363C Relationship with other provisions

(1) This part applies despite—

(a) other provisions of this chapter or the Mineral Resources Act; and

(b) the conditions or other provisions of an authority to prospect.

(2) If this part conflicts with another provision of this chapter or the Mineral Resources Act, this part prevails to the extent of the inconsistency.

Division 2 General suspension

363D Suspension of authorised activities for authority to prospect

(1) This section applies to an authorised activity for an authority to prospect in the area of overlapping mineral (f) land.

(2) Subject to subsection (3) and section 363E, any right to carry out the activity on the overlapping mineral (f) land is suspended.

(3) During the suspension, the authority holder may carry out an authorised activity for the authority on the overlapping mineral (f) land only if—

(a) the mineral (f) tenure holder for the land has agreed in writing to the carrying out of the activity; and

(b) a copy of the agreement has been lodged; and

(c) the agreement is still in force.

(4) The suspension continues until the mineral (f) tenure ends.

363E Entry rights for particular activities during suspension

(1) An authority to prospect holder to whom section 363D applies may, without an agreement mentioned in that section, enter the overlapping mineral (f) land to—

Not authorised—indicative only

Not authorised—indicative only

(a) carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act; or

(b) carry out low impact environmental monitoring; or

Examples—

the monitoring of air, ecology, fauna, hydrology, soil or water

(c) move, remove or maintain equipment, machinery or plant; or

(d) carry out improvement restoration for the authority to prospect; or

(e) carry out care and maintenance of disturbed areas; or

(f) carry out low impact track construction or maintenance; or

(g) use or maintain infrastructure put in place on the land before the commencement of this section; or

(h) put in place or maintain infrastructure for a purpose, or to do an activity, mentioned in paragraphs (d) to (g); or

(i) construct pipelines for transporting water in the area of mineral development licence 374 for infrastructure mentioned in paragraph (g), if—

(i) the construction is an authorised activity for the authority to prospect; and

(ii) the mineral (f) tenure holder for the land has agreed in writing to the location of the pipelines; and

(iii) a copy of the agreement has been lodged; and

(iv) the agreement is still in force.

(2) Subsection (1) is subject to section 363F.

(3) The authority holder's rights and obligations under the rest of this Act continue to apply for an entry and the carrying out of an activity authorised under subsection (1).

(4) In this section—

improvement restoration, for an authority to prospect, means the repair of any damage caused by an activity under the authority to all pre-existing improvements on, or attached to, the land subject to the authority by—

(a) restoring them to the same, or substantially the same, condition they were in before the damage happened; or

(b) replacing them with another improvement in the condition mentioned in paragraph (a).

rest of this Act means the provisions of this Act other than this part.

363F Notice of entry under s 363E

Before entering land under section 363E(1), an authority to prospect holder must, at least 10 business days before the entry, give the mineral (f) tenure holder for the land a notice stating the following—

(a) the area of the overlapping mineral (f) land proposed to be entered;

(b) the period during which the land will be entered (the ***entry period***);

(c) the activities proposed to be carried out on the land under section 363E(1);

(d) when and where the activities are proposed to be carried out.

363G Ministerial power to suspend authority to prospect requirements

(1) This section applies if the Minister is satisfied that, because of section 363D, the holder of an authority to prospect is not able to, or will not be able to, carry out all or any authorised activities for the authority.

Not authorised—indicative only

Not authorised—indicative only

(2) The Minister may, by giving notice to the authority holder, decide to suspend or limit any of the performance requirements for the authority to prospect, for all or part of the term of the authority.

(3) During the suspension or limitation, the obligation does not apply to the extent of the suspension or limitation.

(4) In this section—

performance requirement means an obligation under this Act or a condition of an authority to prospect, and includes an obligation about relinquishment.

Division 3 Resolving disputes

363H Negotiation and request to Minister

(1) This section applies if there is a dispute about any of the following—

(a) a right to carry out an authorised activity under section 363D;

(b) a right to enter overlapping mineral (f) land under section 363E;

(c) any request made by a mineral (f) tenure holder to an authority to prospect holder to remove or modify infrastructure on overlapping mineral (f) land, if the infrastructure was put in place on the land under—

(i) an agreement entered into under section 363D(3); or

(ii) section 363E(1).

(2) The parties must use all reasonable endeavours to attempt to resolve the dispute.

(3) After complying with subsection (2), either of the parties may, by a notice in the approved form, ask the Minister to decide whether the entry is allowed or the activity may be carried out.

(4) Before making a decision, the Minister must give the parties an opportunity to make submissions about the request within a reasonable period.

Note—

For other relevant provisions about making a submission, see section 851AA.

(5) Also before making the decision, the Minister may refer the dispute under section 363I to the Land Court for it to make recommendations about deciding the dispute.

363I Reference to Land Court

(1) A referral by the Minister under section 363H(5) must be made by filing a notice in the approved form with the registrar of the Land Court.

(2) The referral starts a proceeding before the Land Court for it to make the recommendations.

(3) The parties to the proceeding are the mineral (f) tenure holder and the authority to prospect holder for the overlapping mineral (f) land to which the dispute relates.

363J Decision by Minister

(1) The Minister must, after considering the following, decide the matter and give the parties notice of the decision—

(a) any submissions made by the parties under section 363H(4);

(b) any recommendations by the Land Court.

(2) In making a decision, the Minister may also consider the public interest.

(3) The Minister's decision binds the parties.

(4) The Minister may impose conditions on any decision that the entry is allowed or the authorised activity may be carried out.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Obtaining petroleum lease if overlapping mineral (f) land or land in area of MDLA 407

363K Additional provision about area of petroleum lease

(1) This section applies if—

(a) a person who, under section 117, may make an ATP-related application for land that includes any of the following makes that application—

(i) land that is overlapping mineral (f) land;

(ii) land in the area of MDLA 407; and

(b) the Minister decides to grant the petroleum lease.

(2) Without limiting section 168, the area of the petroleum lease can not include—

(a) the land that is overlapping mineral (f) land; or

(b) land in the area of MDLA 407.

(3) The Minister may, in the lease, describe the exclusion of the land under subsection (2) in a way the Minister considers appropriate.

363L Minister may add land to petroleum lease if mineral (f) tenure ends

(1) This section applies if—

(a) land is not included in a petroleum lease because of section 363K(2); and

(b) if the land is—

(i) overlapping mineral (f) land—the mineral (f) tenure for the land ends; and

(ii) in the area of MDLA 407—

(A) the mineral (f) pilot tenure for mineral development licence 309 ends; and

(B) a mineral (f) production tenure has not been granted for land in the mineral development licence's area.

(2) The Minister may amend the petroleum lease by adding the land to the lease area if—

(a) the lease as amended complies with section 168; and

(b) the lease holder consents.

(3) The Minister may amend the provisions of the lease in a way that reflects the inclusion of the land.

(4) Also, the Minister may give the lease holder a notice—

(a) withdrawing, from a stated day, the approval of the development plan for the lease; and

(b) directing the holder to lodge a proposed later development plan for the lease that—

(i) complies with the later development plan requirements; and

(ii) changes the development plan for the lease to reflect the inclusion of the land.

(5) The amended provisions of the lease or the proposed later development plan must not be—

(a) inconsistent with the mandatory conditions of petroleum leases; or

(b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease.

Not authorised—indicative only

Not authorised—indicative only

Part 5 Additional provisions for petroleum leases

Division 1 Restriction on authorised activities for particular petroleum leases

364 Restriction on authorised activities on overlapping ATP land

(1) This section applies if—

(a) the area of a petroleum lease includes overlapping ATP land; and

Note—

Overlapping ATP land includes land in the area of the lease that is excluded land for the authority to prospect. See sections 341(2)(c) and 357(2)(c).

(b) the petroleum lease was, under section 340 or 356, granted to someone other than the relevant authority to prospect holder.

(2) The petroleum lease holder may carry out an authorised activity for the petroleum lease on the overlapping ATP land only if—

(a) the authority to prospect holder has agreed in writing to the carrying out of the activity and—

(i) a copy of the agreement has been lodged; and

(ii) the agreement is still in force; or

(b) the activity relates to incidental coal seam gas mined or to be mined within the mine working envelope.

Note—

See also section 934 (Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases).

(3) In this section—

mine working envelope means land that—

(a) is in the area of a coal mining lease or an oil shale mining lease the area of which includes the overlapping ATP land; and

(b) covers any of the following or is needed for post-production activities—

(i) past mine workings;

(ii) current mine workings;

(iii) mine workings scheduled to be mined within the next 5 years;

(iv) authorised activities for the mining lease associated with the processing, transportation, storage and use of the incidental coal seam gas produced.

Division 2 Conditions

365 Continuing requirement for coordination arrangement for particular petroleum leases

(1) This section applies if—

(a) a petroleum lease is granted over land in the area of a coal or oil shale mining lease and the application for the petroleum lease was not made by or jointly with the mining lease holder; or

(b) a petroleum lease holder is a party to a coordination arrangement mentioned in section 379.

(2) It is a condition of the petroleum lease that—

(a) its holder must continue to be party to a relevant coordination arrangement; and

(b) authorised activities for the petroleum lease must not be carried out if there is no relevant coordination arrangement.

Not authorised—indicative only

Not authorised—indicative only

Note—

For subleases under a coordination arrangement, see section 238.

(3) In this section—

relevant coordination arrangement means a coordination arrangement with the mining lease holder about—

(a) petroleum production under the petroleum lease; and

(b) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

366 Compliance with obligation to negotiate with coal or oil shale mining lease applicant

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

367 Requirement for giving of copy of relinquishment report

(1) This section applies if—

(a) a petroleum lease holder has, under section 545, given a report about a relinquishment of part of the area of the lease; and

(b) immediately before the relinquishment, the part included land in the area of a coal or oil shale exploration tenement.

(2) The petroleum lease holder must give a copy of the report to—

(a) the coal or oil shale exploration tenement holder; and

(b) anyone else who has applied for a mining lease for the part.

Maximum penalty—150 penalty units.

368 Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

If—

(a) a petroleum lease contains a relinquishment condition; and

(b) all or part of the area of the lease ceases to be in the area of a coal or oil shale exploration tenement (the ***relevant land***);

the condition ceases to apply for the relevant land.

Division 3 Amendment of relinquishment condition by application

Subdivision 1 Preliminary

369 Application of div 3

This division applies if a petroleum lease contains a relinquishment condition and all or part of the area of the lease is in the area of a coal or oil shale exploration tenement.

Subdivision 2 Making application to amend relinquishment condition

370 Conditions for applying to amend

(1) The petroleum lease holder may apply for the Minister to amend the condition if the applicant has, before making the application—

(a) made reasonable attempts to consult with the coal or oil shale exploration tenement holder about—

(i) the proposed amendment; and

Not authorised—indicative only

Not authorised—indicative only

(ii) a proposed later development plan for the lease; and

(b) changed the proposed amendment and the proposed later development plan to give effect to any reasonable proposal by the tenement holder that will optimise—

(i) petroleum production under the amended petroleum lease; and

(ii) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land.

(2) However, subsection (1)(b) applies only to the extent the provisions are commercially and technically feasible for the applicant.

371 Obligation of coal or oil shale exploration tenement holder to negotiate

The coal or oil shale exploration tenement holder must, if asked by the petroleum lease holder, make reasonable attempts to reach an agreement with the petroleum lease holder about the matters mentioned in section 370(1)(b) that provides the best resource use outcome without significantly affecting the parties' rights or interests.

Note—

See also part 8 (Confidentiality of information).

372 Requirements for making application

(1) The application must—

(a) be in the approved form; and

(b) state whether or not the development plan for the petroleum lease has been complied with; and

(c) if the development plan for the lease has not been complied with—state details of, and the reasons for, each noncompliance; and

(d) include a CSG statement; and

(e) include a proposed later development plan for the lease as amended under section 370; and

(f) include a statement about each of the following—

(i) the details of the consultation carried out under section 370(1)(a);

(ii) the results of the consultation;

(iii) whether the proposed development plan includes all provisions proposed by the coal or oil shale exploration tenement holder under section 370(1)(b);

(iv) if the proposed development plan does not include a provision proposed by the tenement holder—why it was not included;

(v) the applicant's assessment of the potential for the applicant and the tenement holder to make a coordination arrangement about—

(A) petroleum production under the amended petroleum lease; and

(B) coal, oil shale or incidental coal seam gas mining under any future mining lease over the land that may be granted to the tenement holder; and

(g) be accompanied by the fee prescribed under a regulation.

(2) However, the CSG statement need not include a proposed safety management system.

373 Notice of application

The applicant must immediately after making the application give the coal or oil shale exploration tenement holder a copy of the application.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Deciding amendment application

374 Submissions by coal or oil shale exploration tenement holder

(1) The coal or oil shale exploration tenement holder may lodge submissions about the application.

(2) However, the submissions may be lodged only within 20 business days after the holder is, under section 373, given a copy of the application.

(3) The submissions may include—

(a) information about all or any of the following—

(i) exploration carried out under the tenement;

(ii) the results of the exploration;

(iii) the prospects for future coal or oil shale mining or incidental coal seam gas mining from the land; or

(b) a proposal by the tenement holder for the development of coal or oil shale in the land; or

(c) information relevant to the CSG assessment criteria.

(4) The holder must give the applicant a copy of the submissions.

(5) In deciding the application, regard must be had to the submissions.

375 Minister may require further negotiation

(1) The Minister may, by notice, require the applicant to conduct negotiations with the coal or oil shale exploration tenement holder with a view to making changes of a type mentioned in section 370(1)(b).

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

(3) If the Minister is reasonably satisfied the applicant has not complied with the requirement the Minister may decide to refuse the application.

376 Deciding amendment application

(1) Before deciding to grant the application, the Minister must decide whether to approve the applicant's proposed later development plan for the petroleum lease.

(2) The application can not be granted unless the proposed plan has been approved.

(3) Chapter 2, part 2, division 4 applies for deciding whether to approve the proposed plan.

Note—

See also part 6, division 2 (Later development plans).

(4) The matters that must be considered in deciding the application include each of the following—

(a) the CSG assessment criteria;

(b) whether the applicant has taken all reasonable steps to comply with the relinquishment condition;

(c) the effect of any approval of later development plans for the petroleum lease;

(d) any submissions under section 374 lodged within the period mentioned in section 374(2).

(5) After the application has been decided, the applicant and the coal or oil shale exploration tenement holder must be given notice of the decision.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Restriction on amendment of other conditions

377 Interests of relevant coal or oil shale mining tenement holder to be considered

A condition of a petroleum lease must not be amended under section 848 unless the interests of any relevant coal or oil shale mining tenement holder have been considered.

Division 5 Renewals

378 Applied provisions for making and deciding renewal application

(1) The adopted provisions apply for a renewal application for a petroleum lease—

(a) as if the petroleum lease holder had lodged a proposed later development plan for the Minister to approve; and

(b) as if a reference in the adopted provisions—

(i) to the application were a reference to the renewal application; and

(ii) to a petroleum lease were a reference to the renewed petroleum lease; and

(iii) to a proposed initial development plan, an initial development plan, a proposed development plan or a development plan were a reference to a proposed later development plan or a later development plan; and

(iv) in section 314(5), to the ATP-related application were a reference to the conditions of the renewed lease.

(2) In this section—

adopted provisions means—

(a) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale exploration tenement—part 2, division 1, subdivisions 2 and 4; or

(b) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale mining lease and the coal or oil shale mining lease holder is not a holder of the petroleum lease—part 3, division 2 (other than section 346); or

(c) if all or part of the land in the area of the petroleum lease is in the area of a coal or oil shale mining lease and the coal or oil shale mining lease holder holds the petroleum lease—part 3, division 3 (other than section 354).

Division 6 Restrictions on particular transfers

379 Requirement for coordination arrangement to transfer petroleum lease in tenure area of mining lease

(1) This section applies, despite the Common Provisions Act, chapter 2, part 1, if land is in the area of a petroleum lease and a coal or oil shale mining lease.

(2) A transfer of the petroleum lease must not be approved as a prescribed dealing under the Common Provisions Act, section 19, or registered as a notifiable dealing under the Common Provisions Act, section 19B, unless the proposed transferee and the mining lease holder are—

(a) the same entity; or

(b) parties to a coordination arrangement about—

(i) petroleum production under the petroleum lease; and

(ii) coal or oil shale mining and any incidental coal seam gas mining under the mining lease.

Not authorised—indicative only

Not authorised—indicative only

Part 6 Additional provisions for development plans

Division 1 Initial development plans

Subdivision 1 Additional requirements for proposed initial development plan

380 Operation of sdiv 1

This subdivision provides for additional requirements for a proposed initial development plan for a petroleum lease applied for under chapter 2 or this chapter.

381 Statement about interests of coal or oil shale mining tenement holder

The proposed plan must include a statement of how the effects on, and the interests of, any relevant overlapping or adjacent coal or oil shale mining tenement holder have, or have not, been considered, having regard to—

(a) the main purposes of this chapter; and

(b) the CSG assessment criteria.

382 Requirement to optimise petroleum production

(1) The activities provided for under the proposed plan must seek to optimise petroleum production in a safe and efficient way.

(2) However, the activities must not adversely affect the future safe and efficient mining of coal where it is commercially and technically feasible not to do so.

383 Consistency with coal or oil shale mining lease development plan and relevant coordination arrangement

If all or part of the area of the proposed petroleum lease is in the area of a coal or oil shale mining lease (the ***relevant land***), the proposed plan must, to the extent it applies to the relevant land, be consistent with—

(a) the development plan for the mining lease; and

(b) any coordination arrangement relating to the relevant land.

Subdivision 2 Other additional provisions

383A Application of sdiv 2

This subdivision applies if—

(a) the Minister is considering whether to approve a proposed initial development plan for a proposed petroleum lease; and

(b) the area of the proposed lease includes all or part of the area of a coal or oil shale mining tenement.

383B Additional criteria for approval

The matters that must be considered include the CSG assessment criteria.

383C Restriction on approval

The proposed plan can not be approved unless the applicant for the proposed lease has complied with the obligations under section 310(1)(b).

Not authorised—indicative only

Not authorised—indicative only

Division 2 Later development plans

Subdivision 1 Additional requirements for proposed later development plans

383D Additional requirements under div 1, sdiv 1 apply

A proposed later development plan for a petroleum lease must comply with the additional requirements under sections 381 to 383 for a proposed initial development plan for a petroleum lease.

Subdivision 2 Other additional provisions

384 Additional criteria

(1) This section applies if—

(a) the Minister is considering whether to approve a proposed later development plan for a petroleum lease; and

(b) the area of the petroleum lease includes all or part of the area of a coal mining tenement or oil shale mining tenement.

(2) The matters that must be considered also include—

(a) the CSG assessment criteria; and

(b) the effect of any approval of the proposed plan on any relinquishment condition for the lease.

Note—

See also section 148 (Power to require relinquishment).

Part 7 Additional provisions for safety management system

385 Grant of petroleum lease does not affect obligation to make safety management system

(1) This section applies if a CSG statement accompanies an application for a petroleum lease, as required under this chapter.

(2) The deciding of the application or the grant of the lease—

(a) does not affect the obligation under section 674 to make a safety management system for any operating plant in the area of the lease; and

(b) is not, of itself, evidence that a safety management system, or purported safety management system, for an operating plant on the area of the petroleum lease complies with section 675 or 705C.

386 Requirement for joint interaction management plan

(1) This section applies if—

(a) a person (the ***operator***) proposes to be an operator of operating plant in the area of a petroleum tenure; and

(b) activities carried out, or proposed to be carried out, at the plant may adversely affect the safe mining of coal in the area of a coal or oil shale mining tenement.

(2) Chapter 9, part 4, division 5, subdivision 1 applies to the operator as if—

(a) a reference in the provisions to the operator of an authorised activities operating plant were a reference to the operator mentioned in subsection (1)(a); and

(b) a reference in the provisions to the overlapping area were a reference to the area of the coal or oil shale mining tenement mentioned in subsection (1)(b); and

Not authorised—indicative only

Not authorised—indicative only

(c) a reference in the provisions to the site senior executive were a reference to the site senior executive for the coal or oil shale mining tenement mentioned in subsection (1)(b).

Part 8 Confidentiality of information

390 Application of pt 8

(1) This part applies if a tenure holder or a person who has applied for a tenure (the ***information-giver***) gives another tenure holder or a person who has applied for a tenure (the ***recipient***) information—

(a) that this chapter requires the information-giver to give the recipient, including, for example, information given to comply with section 313(a); or

(b) for the purposes of this chapter.

(2) However, this part applies subject to any agreement between the information-giver and the recipient about the information or its use.

(3) In this section—

information means information given verbally or in writing.

tenure means a petroleum tenure or a coal or oil shale mining tenement.

391 Confidentiality obligations

(1) The recipient must not disclose the information to anyone else, unless—

(a) the information is publicly available; or

(b) the disclosure is—

(i) to someone whom the recipient has authorised to carry out the authorised activities for the

recipient's petroleum tenure or coal or oil shale mining tenement; or

(ii) made with the information-giver's consent; or

(iii) expressly permitted or required under this or another Act; or

(iv) to the Minister.

(2) The recipient may use the information only for the purpose for which it is given.

392 Civil remedies

If the recipient does not comply with section 391, a court of competent jurisdiction may order the recipient to pay the information-giver all or any of the following—

(a) compensation for any loss the information-giver incurred because of the failure to comply with the section;

(b) the amount of any commercial gain the recipient made because of the failure to comply with the section.

Not authorised—indicative only

Not authorised—indicative only

Chapter 3A Provisions for geothermal tenures and GHG authorities

Part 1 Preliminary

392AA Relationship with chs 2 and 3

(1) Requirements and restrictions under this chapter relating to the granting of a petroleum tenure apply as well as any relevant requirements under chapter 2 or 3.

(2) If this chapter imposes a requirement for or a restriction on the granting of a petroleum tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.

(3) If a provision of this chapter conflicts with a provision of chapter 2 the provision of this chapter prevails to the extent of the inconsistency.

(4) This chapter does not otherwise limit or affect the requirements of chapter 2.

(5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a petroleum tenure.

(6) Despite chapter 2, the activity is not an authorised activity for the petroleum tenure while the restriction applies or if the requirement has not been complied with.

392AB What is an *overlapping authority (geothermal or GHG)*

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

(2) An ***overlapping authority (geothermal or GHG)***, for a proposed petroleum authority, is a geothermal tenure or GHG authority (the ***existing authority***) all or part of the area of which will, if the proposed petroleum authority is granted, be in the existing authority's area.

392AC General provision about petroleum authorities for land subject to geothermal tenure or GHG authority

Subject to the other provisions of this chapter and chapters 2 and 3, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect—

(a) the power under this Act to grant a petroleum authority; or

(b) the carrying out of authorised activities for a petroleum authority.

Part 2 Obtaining petroleum lease if overlapping tenure

Division 1 Preliminary

392AD Application of pt 2

This part applies if—

(a) a person (the ***applicant***) wishes to make a petroleum lease application; and

(b) there is an overlapping authority (geothermal or GHG) for the proposed petroleum lease; and

(c) the overlapping authority (geothermal or GHG) is a geothermal tenure or GHG tenure (the ***overlapping tenure***).

Not authorised—indicative only

Not authorised—indicative only

Division 2 Requirements for application

392AE Requirements for making application

(1) The petroleum lease application must include—

(a) a statement complying with section 392AF (an ***information statement***); and

(b) other information addressing the matters mentioned in subsection (2) (the ***assessment criteria***), other than about attempts to consult with the overlapping tenure holder.

(2) The assessment criteria are—

(a) compliance with the provisions of chapter 9; and

(b) the additional requirements under part 6 for proposed initial development plans; and

(c) the potential for the parties to make the following for the proposed petroleum lease—

(i) for a geothermal tenure—a geothermal coordination arrangement;

(ii) for a GHG tenure—a GHG coordination arrangement; and

(d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed petroleum lease and the overlapping tenure; and

(e) the public interest.

392AF Content requirements for information statement

The information statement must—

(a) assess—

(i) the likely effect of proposed authorised activities for the proposed petroleum lease on the future

carrying out of authorised activities for the overlapping tenure; and

(ii) the technical and commercial feasibility of coordinating the proposed authorised activities and the future carrying out of the authorised activities; and

(b) include proposals for the minimisation of potential adverse effects on possible future carrying out of authorised activities for the overlapping tenure.

Division 3 Consultation provisions

392AG Applicant's information obligation

(1) The applicant must within 10 business days after making the petroleum lease application give the overlapping tenure holder a copy of the application other than any part of the application relating to the capability criteria.

(2) If the Minister is reasonably satisfied the applicant has not complied with an obligation under this division, the petroleum lease application may be refused.

392AH Submissions by overlapping tenure holder

(1) The overlapping tenure holder may lodge submissions about the petroleum lease application (***holder submissions***).

(2) However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.

(3) Holder submissions may do all or any of the following—

(a) state that the holder does not object to the granting of the proposed petroleum lease;

(b) if the overlapping tenure is a geothermal permit or GHG permit—

Not authorised—indicative only

Not authorised—indicative only

(i) state that the holder does not wish any priority for the carrying out of authorised activities for any future lease that may arise from the permit (***overlapping authority priority***); or

(ii) include a proposal by the overlapping tenure holder for the activity for which overlapping authority priority is sought;

(c) include information about authorised activities carried out under the overlapping tenure;

(d) include information relevant to the assessment criteria;

(e) propose reasonable provisions for the safety management system for the proposed petroleum lease.

(4) The holder must give the applicant a copy of the holder submissions.

Division 4 Resource management decision if overlapping permit

392AI Application of div 4

(1) This division applies if—

(a) the overlapping tenure is a geothermal permit or GHG permit (the ***overlapping permit***); and

(b) the overlapping permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and

(c) the submissions state that the holder wishes overlapping authority priority.

(2) However, this division does not apply if, under the Geothermal Act, chapter 5 or the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.

Note—

If this division does not apply, the petroleum lease application proceeds immediately to decision under chapter 2 as affected by division 7.

392AJ Resource management decision

The Minister must make a decision (the ***resource management decision***) about whether to—

(a) grant the petroleum lease application; or

(b) give any overlapping authority priority for all or part of the relevant land; or

(c) not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.

392AK Criteria for decision

The Minister must consider the following in making the resource management decision—

(a) the information statement;

(b) the assessment criteria;

(c) the holder submissions;

(d) the public interest.

392AL Restrictions on giving overlapping authority priority

Overlapping authority priority may be recommended or given only if it is considered—

(a) either—

(i) it is unlikely the applicant and the overlapping permit holder will enter into—

(A) for a geothermal permit—a geothermal coordination arrangement; or

Not authorised—indicative only

Not authorised—indicative only

(B) for a GHG permit—a GHG coordination arrangement; or

(ii) an arrangement mentioned in subparagraph (i) for the proposed petroleum lease is not commercially or technically feasible; and

(b) the public interest would be best served by not granting a petroleum lease to the applicant first.

Division 5 Process if resource management decision is to give overlapping authority priority

392AM Application of div 5

This division applies only if, under division 4, a resource management decision is required and the decision is to give overlapping authority priority for all or part of the relevant land.

392AN Notice to applicant and overlapping permit holder

(1) The chief executive must give the applicant and the overlapping permit holder notice of the resource management decision.

(2) The notice must invite the overlapping permit holder to, within 6 months after the giving of the notice (the ***overlapping authority application period***), apply for a lease as follows (an ***overlapping lease***) for the land mentioned in subsection (3)—

(a) if the overlapping permit is a geothermal permit—a geothermal lease;

(b) if the overlapping permit is a GHG permit—a GHG lease.

(3) For subsection (2), the land is—

(a) if the overlapping authority priority is for all of the land—for all of the land; or

(b) if the priority is for part of the land—for that part.

392AO Overlapping lease application for all of the land

(1) This section applies if—

(a) the overlapping authority priority is for all of the land; and

(b) within the overlapping authority application period the overlapping permit holder applies for an overlapping lease for all of the land.

(2) A further step can not be taken to decide the petroleum lease application until after the overlapping lease application has been decided.

Note—

The Geothermal Act, chapter 5, part 5 and the GHG storage Act, chapter 4, part 5 provide for refusal of the overlapping lease application if it is not pursued in a timely manner.

(3) If the decision on the overlapping lease application is to grant an overlapping lease for all of the land, the petroleum lease application is taken to have lapsed.

392AP Overlapping lease application for part of the land

(1) This section applies if the overlapping permit holder applies for an overlapping lease for part of the land within the overlapping authority application period.

(2) The person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.

(3) Unless the amendment is made, a further step can not be taken to decide the petroleum lease application until after the overlapping lease application has been decided.

(4) If—

Not authorised—indicative only

Not authorised—indicative only

(a) the amendment has not been made; and

(b) the decision on the overlapping lease application is to grant an overlapping lease for part of the land;

the person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.

Note—

If the petroleum lease application is not amended, see section 392AT (Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement).

392AQ No overlapping lease application

If the overlapping permit holder does not apply for an overlapping lease for any of the land within the overlapping authority application period, the petroleum lease application may be decided.

Division 6 Resource management decision not to grant and not to give priority

392AR Lapsing of application

The petroleum lease application is taken to have lapsed if—

(a) under division 4, a resource management decision is required; and

(b) the decision was not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.

Division 7 Deciding application

392AS Application of div 7

This division applies if—

(a) the overlapping tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the ***submission period***) or at all; or

(b) the overlapping tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or

(c) under division 4, a resource management decision is required and—

(i) the resource management decision is not to give overlapping authority priority for any of the relevant land; or

(ii) the resource management decision is to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a petroleum lease for the land.

392AT Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement

The Minister may decide to refuse the petroleum lease application if—

(a) the Minister is satisfied the applicant and the overlapping tenure holder have made reasonable attempts to reach the following (a ***relevant arrangement***)—

(i) if the overlapping tenure is a geothermal permit—a proposed geothermal coordination arrangement;

Not authorised—indicative only

Not authorised—indicative only

(ii) if the overlapping tenure is a GHG permit—a proposed GHG coordination arrangement; and

(b) either—

(i) the overlapping tenure holder has lodged a notice stating there are no reasonable prospects of a relevant arrangement being made; or

(ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the overlapping tenure holder have had a reasonable opportunity to make a relevant arrangement.

392AU Additional criteria for deciding provisions of petroleum lease

In deciding the provisions of the petroleum lease the Minister must consider all of the following—

(a) the information statement;

(b) the assessment criteria;

(c) any holder submissions;

(d) the effect of the petroleum lease on the safe and efficient carrying out of authorised activities for the overlapping tenure;

(e) for an overlapping permit—the effect of the petroleum lease on the safe and efficient carrying out of authorised activities for any future lease that may arise from the permit.

392AV Publication of outcome of application

(1) After the Minister decides whether or not to grant the petroleum lease, the chief executive must publish a notice about the outcome of the petroleum lease application in or on at least 1 of the following—

(a) the gazette;

(b) the department's website;

(c) another publication the chief executive considers appropriate.

(2) The notice must state—

(a) the decision; and

(b) if the decision was to grant the petroleum lease—all the petroleum lease's conditions other than the mandatory conditions; and

(c) if, under division 4, a resource management decision is required and the decision was to give overlapping authority priority for all or part of the land—the decision, and the reasons for it.

(3) However, if the chief executive considers information in a condition is commercial-in-confidence, the chief executive may, instead of publishing the condition, publish a statement about its intent.

Part 3 Priority to particular geothermal or GHG lease applications

392AW Earlier geothermal or GHG lease application

If—

(a) a petroleum lease application is made; and

(b) before the making of that application, an application (the ***other application***) was made for a geothermal lease or GHG lease (the ***other proposed lease***) but not decided; and

(c) the other application had not been decided before the making of the petroleum lease application; and

Not authorised—indicative only

Not authorised—indicative only

(d) the other proposed lease would, if it were granted, be an overlapping authority for the proposed petroleum lease;

the petroleum lease application must not be decided until the other application has been decided.

392AX Proposed geothermal or GHG lease for which EIS approval given

(1) This section applies for a petroleum lease application if—

(a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and

(b) the EIS is for a project that is, or includes, a proposed geothermal lease or GHG lease (the ***proposed lease***) for land the subject of the application.

(2) The application must not be decided until—

(a) if no application is made for the proposed lease within 1 year after the granting of the approval—the end of that year; or

(b) if an application is made for the proposed lease within that year—that application is decided.

392AY Proposed geothermal or GHG lease declared a coordinated project

(1) This section applies for a petroleum lease application if—

(a) before the making of the application, a coordinated project was declared; and

(b) the project is, or includes, a proposed geothermal lease or GHG lease (the ***proposed lease***) for land the subject of the application.

(2) The application must not be decided until—

(a) if no application is made for the proposed lease within 1 year after the making of the declaration—the end of that year; or

(b) if an application is made for the proposed lease within that year—that application is decided.

Part 4 Petroleum lease applications in response to invitation under Geothermal Act or GHG storage Act

392AZ Application of pt 4

This part applies if—

(a) a petroleum lease application is made in response to an invitation given because of a resource management decision under the Geothermal Act or the GHG storage Act; and

(b) the application is made within 6 months after the giving of the invitation.

392BA Additional ground for refusing application

(1) The Minister may decide to refuse the application if satisfied the applicant has not in a timely manner—

(a) taken any step for the application required of the applicant under chapter 2 or 3 or this chapter; or

(b) satisfied the Minister about a matter that under chapter 2 or 3 or this chapter is required for the granting of the application.

(2) Subsection (1) does not limit section 843A.

Not authorised—indicative only

Not authorised—indicative only

Part 5 Additional provisions for petroleum authorities

Division 1 Restrictions on authorised activities for particular petroleum authorities

392BB Overlapping geothermal or GHG lease

(1) This section applies if land in the area of any of the following petroleum authorities is in the area of a geothermal lease or GHG lease—

(a) an authority to prospect;

(b) a data acquisition authority;

(c) a water monitoring authority.

(2) However, this section does not apply if the same person holds the petroleum authority and the geothermal lease or GHG lease.

(3) An authorised activity for the petroleum authority may be carried out on the land only if—

(a) the geothermal lease or GHG lease holder has not, in the way required under subsection (4), objected to—

(i) the carrying out of the activity; and

(ii) if chapter 9 requires a safety management system for the petroleum authority—the safety management system; or

(b) if an objection under paragraph (a) has been made—the Minister has, under section 392BD, decided the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 392BF.

(4) The objection must be written, given to the petroleum authority holder and lodged.

392BC Overlapping geothermal permit or particular GHG authorities

(1) This section applies if land in the area of any of the following petroleum authorities is in the area of a geothermal permit or a GHG authority other than a GHG lease—

(a) an authority to prospect;

(b) a data acquisition authority;

(c) a water monitoring authority.

(2) An authorised activity for the petroleum authority can not be carried out on the land if—

(a) carrying out the activity adversely affects the carrying out of an authorised activity for the geothermal permit or GHG authority; and

(b) the authorised activity for the geothermal permit or GHG authority has already started.

392BD Resolving disputes

(1) This section applies if, under section 392BB, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by a petroleum authority holder.

(2) This section also applies if there is a dispute between a petroleum authority holder and a geothermal permit or GHG authority holder about whether an authorised activity for the petroleum authority can be carried out under section 392BC.

(3) Either of the parties may, by a notice in the approved form, ask the Minister to decide—

(a) for section 392BB—whether the authorised activity may be carried out under that section; or

(b) for section 392BC—whether the authorised activity may be carried out under that section.

Not authorised—indicative only

Not authorised—indicative only

(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.

(5) The Minister must, after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.

(6) The Minister's decision binds the parties.

(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.

(8) In this section—

parties means—

(a) for a request about a matter mentioned in subsection (1)—the petroleum authority holder and the geothermal lease or GHG lease holder; or

(b) for a request about a matter mentioned in subsection (2)—the petroleum authority holder and the geothermal permit or GHG authority holder.

Division 2 Additional conditions

392BE Notice by authority to prospect holder to particular geothermal tenure or GHG authority holders or applicants

(1) This section applies if—

(a) an authority to prospect is granted (the ***ATP***); and

(b) land in the authority to prospect's area is in the area of, or in a proposed area under an application for any of the following (the ***other authority***)—

(i) a geothermal permit;

(ii) a GHG permit;

(iii) a GHG data acquisition authority under the GHG storage Act.

(2) It is a condition of the authority to prospect that its holder must, within 20 business days after the holder receives notice of the grant of the ATP, give the holder of, or the applicant for, the other authority a notice stating—

(a) the ATP has been granted; and

(b) the ATP holder's name; and

(c) the term of the ATP.

392BF Condition to notify particular geothermal tenure or GHG authority holders of proposed start of particular authorised activities

(1) This section applies to a petroleum authority holder if there is either of the following (the ***other authority***) for the petroleum authority—

(a) an overlapping authority;

(b) a geothermal tenure or GHG authority sharing a common boundary with the petroleum authority.

(2) Before the petroleum authority holder first starts a designated activity in the other authority's area, the petroleum authority holder must give the other authority holder at least 30 business days notice of the activity.

(3) A notice under subsection (2) must state—

(a) when the designated activity is to start; and

(b) where the designated activity is to be carried out; and

(c) the nature of the activity.

(4) Before changing the land on which the designated activity is being carried out, the petroleum authority holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.

Not authorised—indicative only

Not authorised—indicative only

(5) Compliance with this section is a condition of the petroleum authority.

(6) In this section—

designated activity means any authorised activity for the petroleum authority, other than—

(a) an incidental activity under section 33 or 112; or

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

392BG Requirement to continue geothermal or GHG coordination arrangement after renewal of or dealing with petroleum lease

(1) This section applies if—

(a) a petroleum lease has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the ***other lease***); and

(b) a geothermal coordination arrangement or GHG coordination arrangement applies to the petroleum lease; and

(c) any of the following take place for the petroleum lease—

(i) a renewal;

(ii) a transfer;

(iii) a subletting of the lease or a share in the petroleum lease.

(2) It is a condition of the petroleum lease that its holder must continue to be a party to the following for the lease while the other lease continues in force—

(a) if the other lease is a geothermal lease—a geothermal coordination arrangement;

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

Division 3 Restriction on Minister's power to amend petroleum lease if overlapping tenure

392BH Interests of overlapping tenure holder to be considered

If there is an overlapping tenure for a petroleum tenure, the petroleum tenure may be amended under section 848 only if the Minister has considered the interests of the overlapping tenure holder.

Part 6 Additional provisions for development plans if overlapping tenure

392BI Operation of pt 6

This part imposes additional requirements for the following for which there is an overlapping authority (geothermal or GHG) that is an overlapping tenure—

(a) a proposed initial development plan for a proposed initial development plan for a petroleum lease;

(b) a proposed later development plan for a petroleum lease.

392BJ Statement about interests of overlapping tenure holder

The proposed development plan or amendment must include a statement of how the effects on and the interests of the overlapping tenure holder have or have not been considered having regard to the assessment criteria.

Not authorised—indicative only

Not authorised—indicative only

392BK Consistency with overlapping tenure's development plan and with any relevant coordination arrangement

(1) To the extent the area of the petroleum lease and the overlapping tenure coincide or will coincide, the proposed development plan must be consistent with any geothermal coordination arrangement or GHG coordination arrangement for that area.

(2) Subsection (3) applies only if the overlapping tenure is an overlapping lease.

(3) The proposed plan must, to the extent the area of the petroleum lease and the overlapping lease coincide, or will coincide, be consistent with the development plan for the overlapping lease.

392BL Additional criteria for approval

In deciding whether to approve the proposed development plan, the Minister must consider the assessment criteria.

Part 7 Additional provisions for safety management systems

392BM Grant of petroleum lease does not affect obligation to make safety management system

(1) This section applies if an information statement accompanies a petroleum lease application as required under this chapter.

(2) The deciding of the application or the grant of the petroleum lease—

(a) does not affect the obligation to make a safety management system for any operating plant in the petroleum lease's area; and

(b) is not of itself evidence that a safety management system or purported safety management system for an

operating plant on the petroleum lease's area complies with chapter 9.

392BN Requirements for consultation with particular overlapping tenure holders

(1) This section applies if—

(a) a person (an ***operator***) proposes to be an operator of operating plant in the area of a petroleum tenure; and

(b) activities (***relevant activities***) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of authorised activities for an overlapping authority (geothermal or GHG) for the petroleum tenure; and

(c) the overlapping authority (geothermal or GHG) is an overlapping tenure.

(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping tenure holder about relevant activities for the plant.

(3) If there is more than 1 operator, the petroleum tenure holder may coordinate the consultation between the operators and the overlapping tenure holder.

(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—

(a) the operator gives the overlapping tenure holder an overview of the relevant parts of the operator's proposed safety management system concerning any relevant operating plant the operator proposes to operate for the relevant activities; and

(b) the overlapping tenure holder has not within 30 days after the giving of the overview made any proposal to the operator about provisions for the system.

(5) An operator must, before making or remaking a safety management system for any relevant operating plant the

Not authorised—indicative only

Not authorised—indicative only

operator operates or proposes to operate, have regard to any reasonable provisions for the system proposed by the overlapping tenure holder concerning relevant activities for the plant.

(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.

(7) If an operator makes a safety management system for relevant operating plant and the system includes provisions proposed by the overlapping tenure holder, the operator must—

(a) give the overlapping tenure holder an overview of the safety management system; and

(b) lodge a notice stating any provisions proposed under subsection (5) and whether they were included in the system.

(8) In this section—

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

392BO Application of provisions for resolving disputes about reasonableness of proposed provision

(1) This section applies if a dispute exists between an operator to which section 392BN applies and an overlapping tenure holder about the reasonableness of a provision proposed by the tenure holder for the operator's proposed safety management system.

(2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.

(3) The referral must be written and be lodged.

(4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge submissions about the dispute.

(5) The chief inspector's decision binds each party to the dispute.

(6) The chief inspector must give each party an information notice about the decision.

(7) The chief inspector's decision is not, of itself, evidence that a safety management system, or purported safety management system, for an operating plant complies with section 675.

Chapter 4 Licences and related matters

Note—

For when a licence is required, see sections 802 and 803.

Part 1 Survey licences

Division 1 Key authorised activities

393 Operation of div 1

This division provides for the key authorised activities for a survey licence.

Note—

For other authorised activities, see the Common Provisions Act, chapter 3, part 2, division 4.

394 Surveying activities

(1) A survey licence holder may enter the area of the licence to—

Not authorised—indicative only

Not authorised—indicative only

(a) investigate and survey its potential and suitability for the construction and operation of pipelines or petroleum facilities; and

(b) identify possible pipeline routes and pipeline or petroleum facility access routes.

(2) The carrying out of activities mentioned in subsection (1) is subject to—

(a) section 6; and

(b) chapter 5; and

(c) the mandatory and other conditions of the licence; and

(d) any exclusion or restriction provided for in the licence on the carrying out of the activities; and

(e) the relevant environmental authority for the licence.

Note—

Also, the carrying out of particular activities on particular land in a survey licence's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

Division 2 Obtaining survey licence

395 Applying for licence

(1) A person may apply for a survey licence.

(2) The application must—

(a) be in the approved form; and

(b) state each of the following—

(i) the type of pipeline or petroleum facility the applicant proposes to construct and operate;

(ii) the proposed use of the pipeline or facility;

(iii) for a proposed pipeline—its terminal points;

(iv) the period for which the licence is sought;

(v) the extent and nature of activities to be carried out under the licence; and

(c) address the criteria mentioned in section 397; and

(d) be accompanied by the fee prescribed under a regulation.

396 Deciding application

(1) The Minister may decide to grant or refuse the survey licence.

(2) However, the licence can not be granted unless—

(a) the applicant is an eligible person; and

(b) a relevant environmental authority for the licence has been issued.

Note—

If the application relates to acquired land, see also section 30AC.

(3) The licence must state its term and area.

(4) The term must end no later than 2 years after the licence takes effect.

(5) The licence may also state—

(a) conditions or other provisions of the licence not inconsistent with the mandatory conditions for survey licences; or

(b) a day for the licence to take effect.

(6) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.

(7) If no day of effect is decided, the licence takes effect on the day it is granted.

Not authorised—indicative only

Not authorised—indicative only

397 Criteria for decisions

The matters that must be considered in deciding whether to grant a survey licence or deciding its provisions include the applicant's—

(a) financial and technical resources; and

(b) ability to manage a survey to work out the suitability of the area of the licence for the pipeline or petroleum facility the applicant proposes to construct and operate.

Part 2 Pipeline licences

Note—

For when a pipeline licence is required for a pipeline, see section 802.

Division 1 Key authorised activities

Subdivision 1 Preliminary

398 Operation of div 1

(1) This division provides for the key authorised activities for a pipeline licence.

Notes—

1 For other authorised activities, see chapter 5, part 8 and the Common Provisions Act, chapter 3, part 7.

2 The carrying out of particular activities on particular land in a pipeline licence's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the authorised activities is subject to—

(a) subdivision 2; and

(b) chapter 5; and

(c) the mandatory and other conditions of the licence; and

(d) any exclusion or restriction provided for in the licence on the carrying out of the activities.

399 What is *pipeline land* for a pipeline licence

(1) ***Pipeline land***, for a pipeline licence, is land—

(a) that the licence holder owns; or

(b) over which the holder—

(i) holds an appropriate easement for the construction or operation of the pipeline; or

(ii) has obtained the owner's written permission to enter to construct or operate the pipeline; or

(iii) holds a part 5 permission to enter to construct or operate the pipeline.

(2) To remove any doubt, it is declared that—

(a) the granting of a pipeline licence does not, of itself, create an easement for the construction or operation of the pipeline; and

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

(3) If the Coordinator-General acquires an easement over land for a purpose that includes providing for the construction and operation of a pipeline, the only owner of the land, for a permission mentioned in subsection (1)(b)(ii), is the Coordinator-General.

(4) In this section—

acquires means acquires under the State Development Act.

Not authorised—indicative only

Not authorised—indicative only

399A Written permission binds owner's successors and assigns

(1) This section applies if a pipeline licence holder obtains the written permission of the owner of land to enter the land to construct and operate a pipeline the subject of the licence.

(2) The permission is—

(a) for the benefit of anyone who holds the licence from time to time; and

(b) taken to have been given by, and is binding on, each of the owner's successors and assigns for the land.

(3) However, subsection (2)(b) does not apply to a person who is a successor or assignee for the land if—

(a) an easement over the land is not registered as mentioned in section 437A within 9 months after the pipeline licence holder gives notice of completion of the pipeline under section 420; and

(b) the person became the owner of the land after the end of the 9 months.

Subdivision 2 General restriction on authorised activities

400 Restriction if there is an existing geothermal, GHG or mining lease

(1) This section applies if land in the area of a pipeline licence is also in the area of a geothermal lease, GHG lease or mining lease (each an ***existing lease***) that was granted before the licence.

(2) The pipeline licence holder may carry out an authorised activity for the licence on land within the area of the existing lease only if—

(a) both of the following apply—

(i) the existing lease holder has agreed in writing to the carrying out of the activity;

(ii) the pipeline licence holder has given a copy of the agreement mentioned in subparagraph (i) to the chief executive; or

(b) both of the following apply—

(i) carrying out the activity is consistent with an agreed co-existence plan;

(ii) the pipeline licence holder has given a notice to the chief executive stating the following—

(A) that the plan is in place;

(B) the period for which the plan has effect;

(C) other information prescribed by regulation.

(3) An agreed co-existence plan must—

(a) identify the parties to the plan; and

(b) set out an overview of the activities proposed to be carried out in the area mentioned in subsection (1), including the location of the activities and when they will start; and

(c) set out how the activities mentioned in paragraph (b) will comply with mining safety legislation; and

(d) state how the activities mentioned in paragraph (b) optimise the development and use of the State's resources; and

(e) state whether any monetary or non-monetary compensation is to be given under the plan; and

(f) state the period for which the plan is to have effect; and

(g) include any other information prescribed by regulation.

(4) The pipeline licence holder may give the existing lease holder a notice (the ***negotiation notice***) that the pipeline licence

Not authorised—indicative only

Not authorised—indicative only

holder wishes to negotiate a co-existence plan with the existing lease holder.

(5) The negotiation notice is invalid if it does not comply with the prescribed requirements for the notice.

(6) The pipeline licence holder and the existing lease holder must negotiate in good faith and use all reasonable endeavours to agree on a co-existence plan.

(7) If the pipeline licence holder and the existing lease holder can not agree on a co-existence plan within 3 months after the giving of the negotiation notice, the pipeline licence holder may apply for arbitration of the dispute.

(8) Despite subsection (7), the pipeline licence holder and the existing lease holder may jointly apply for arbitration of the dispute at any time.

(9) It is a condition of both the pipeline licence and the existing lease that the holder must comply with each agreed co-existence plan that applies to the holder.

(10) In this section—

agreed co-existence plan means—

(a) if an agreed co-existence plan is agreed on under subsection (6)—the agreed co-existence plan; or

(b) if an agreed co-existence plan is amended by the holders of the pipeline licence and the existing mining lease—the agreed co-existence plan as amended; or

(c) if an agreed co-existence plan is arbitrated as an agreed co-existence plan under the Common Provisions Act, chapter 5, part 3—the agreed co-existence plan as arbitrated.

Subdivision 3 Pipeline construction and operation

401 Construction and operation of pipeline

(1) The holder of a pipeline licence may construct or operate each pipeline the subject of the licence on—

(a) pipeline land for the licence; and

(b) subject to division 6, public land in the area of the licence.

Notes—

1 See also section 802 (Restriction on pipeline construction or operation).

2 For who may exercise the rights for the holder, see section 563.

3 For who owns the pipeline, see chapter 5, part 6.

(2) However, if native title exists in relation to land mentioned in subsection (1), the holder must have or hold an interest or permission mentioned in section 399(1)(b) for the native title rights and interests.

(3) To remove any doubt, it is declared that the mere grant of the licence does not, of itself, authorise—

(a) the construction or operation of a pipeline on other land in the area of the licence; or

(b) taking, interfering with or using produced water.

402 Licence may extend transportation right to other prescribed substances

(1) A condition of a pipeline licence may extend its holder's right under section 401 to operate any pipeline in the area of the licence to include the transportation of either of the following substances—

(a) a GHG stream;

(b) a substance prescribed under a regulation.

Not authorised—indicative only

Not authorised—indicative only

(2) However, a substance may be prescribed only if it is similar to petroleum and is suitable for transportation by the pipeline.

(3) The condition may impose restrictions on the extended right.

403 Incidental activities

(1) This section applies if, under section 401, a pipeline licence holder has the right to construct or operate a pipeline.

(2) The holder may carry out an activity (an ***incidental activity***) in the area of the licence if carrying out the activity is reasonably necessary for the construction or operation.

Examples of incidental activities—

1 constructing or operating plant or works, including, for example, bridges, powerlines, roads, trenches and tunnels

2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps

3 removing vegetation for, or for the safety of, the pipeline construction or operation

Note—

See also chapter 5 (Common petroleum authority provisions) and section 20 (What are the *conditions* of a petroleum authority).

(3) Also, the holder may carry out an activity (a ***stated pipeline licence incidental activity***) in the area of the licence if—

(a) the activity is carried out on pipeline land concurrently with the construction or operation; and

(b) the activity is stated on the licence to be an incidental activity for this subsection that the holder of the licence is entitled to carry out under the licence; and

(c) the carrying out of the activity is reasonably necessary for, or incidental to, carrying out an authorised activity for a petroleum lease, a petroleum facility licence or another pipeline licence.

(4) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation

is not an incidental activity or a stated pipeline licence incidental activity.

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

Division 2 Availability of pipeline licences

404 Licence types—area or point to point

A pipeline licence may be granted—

(a) over a stated area (an ***area pipeline licence***); or

(b) for a pipeline from one stated point or points to another point or points (a ***point-to-point pipeline licence***).

405 Pipeline licence can not be granted for distribution pipeline

A pipeline licence under this Act can not be granted for a distribution pipeline.

406 Pipeline licence may be granted over any land

A pipeline licence may be granted over any land, including land in the area of another petroleum authority.

Division 3 Obtaining pipeline licence

Subdivision 1 Applying for pipeline licence

407 Who may apply and multiple licence applications

(1) A person may apply for a pipeline licence.

Not authorised—indicative only

Not authorised—indicative only

(2) However, a person can not, in the same application, apply for—

(a) a point-to-point pipeline licence for more than 1 point-to-point pipeline; or

(b) an area pipeline licence for more than 1 area; or

(c) a point-to-point pipeline licence and an area pipeline licence.

409 Requirements for making application

The application must—

(a) be in the approved form; and

(b) state each of the following (the ***application details***)—

(i) a description of the land in the area of the licence;

(ii) the type and purpose of each pipeline to be the subject of the licence and each substance proposed to be transported through it;

(iii) for a point-to-point pipeline licence—

(A) the pipeline's terminal points; and

(B) if the pipeline has not already been constructed—a proposed day for the completion of the construction of the pipeline;

(iv) for an area pipeline licence other than to the extent the application is for existing pipelines—a proposed day for the completion of the construction of each initial pipeline mentioned in the licence;

(v) the extent and nature of activities proposed to be carried out under the licence, including, for example, the extent and nature of any proposed stated pipeline licence incidental activity for the licence; and

(c) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—identify possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest; and

(d) address the criteria mentioned in section 415(1)(a); and

(e) if the activities to be carried out under the pipeline licence include any proposed stated pipeline licence incidental activity—address the criteria mentioned in section 415(2); and

(f) be accompanied by information, prescribed by regulation, that is relevant to the matters mentioned in section 410(1)(a)(iii); and

(g) be accompanied by the fee prescribed under a regulation.

409A Notice of application to relevant local government

(1) This section does not apply if the application is for an existing pipeline.

(2) The applicant must, within 10 business days after making the application, give each relevant local government a notice stating the application details under section 409(b) for the proposed application.

(3) If subsection (2) is not complied with, the application lapses.

(4) To remove any doubt, it is declared that the lapsing of the application under subsection (3) does not of itself prevent the former applicant making another pipeline licence application.

(5) In this section—

relevant local government means a local government in whose local government area pipelines are proposed to be constructed under the licence.

Not authorised—indicative only

Not authorised—indicative only

409B Rejection of application if applicant disqualified

(1) The Minister must reject an application for a pipeline licence if the Minister decides the applicant is disqualified under the Common Provisions Act, chapter 7 from being granted the pipeline licence.

(2) On rejection of the application, the Minister must give the applicant a notice about the decision.

Subdivision 2 Deciding pipeline licence application

410 Deciding whether to grant licence

(1) The Minister may—

(a) subject to sections 411 and 412A, grant the applicant a pipeline licence only if—

(i) the applicant is an eligible person; and

(ii) a relevant environmental authority for the licence has been issued; and

(iii) the Minister is satisfied the applicant is able to competently and safely manage, for each pipeline the subject of the licence, the location, design, construction and operation of the pipeline; and

(b) before granting the licence, require the applicant to do all or any of the following within a stated reasonable period—

(i) pay the licence fee for the first year of the proposed licence;

(ii) give, under section 488, security for the licence.

Note—

If the application relates to acquired land, see also section 30AC.

(2) If the applicant does not comply with a requirement under subsection (1), the Minister may refuse to grant the licence.

411 Public notice requirement

(1) The Minister must not grant the applicant a pipeline licence unless—

(a) the notice complying with subsection (2)(a) has been published as required under subsection (2)(b); and

(b) the applicant has given the chief executive evidence of the publication; and

(c) the Minister has considered any submissions in response to the notice lodged within the period stated in the notice.

(2) For subsection (1)(a), the notice must—

(a) state each of the following—

(i) that a pipeline licence application has been made;

(ii) the applicant's name;

(iii) the area proposed for the licence;

(iv) each substance proposed to be transported through the pipeline;

(v) where further details about the application can be obtained;

(vi) a period of at least 30 business days during which anyone may lodge submissions about the application;

(vii) where submissions must be lodged; and

(b) be published in a newspaper circulating throughout the State or, if the proposed licence is an area pipeline licence, generally in the area.

(3) The applicant must bear the costs of the publication.

Not authorised—indicative only

Not authorised—indicative only

412 Provisions of licence

(1) Each pipeline licence must state—

(a) its term and area; and

Note—

See also section 414 (Provision for reduction of area of licence).

(b) for a point-to-point pipeline licence—the day for completion of the construction of the pipeline, if it has not already been constructed; and

(c) for an area pipeline licence—the day for completion of the construction of each initial pipeline to be the subject of the licence, if they have not already been constructed; and

(d) for a pipeline licence under which a stated pipeline licence incidental activity may be carried out—the stated pipeline licence incidental activities that the holder of the licence is entitled to carry out under the licence; and

(e) each substance that is to be transported through the pipeline.

(2) Subject to section 413, the licence may also state—

(a) conditions or other provisions of the licence, other than conditions or provisions that are—

(i) inconsistent with the mandatory conditions for pipeline licences; or

Note—

For mandatory conditions, see division 4 (Key mandatory conditions for pipeline licences) and chapter 5, part 8 (General provisions for conditions and authorised activities).

(ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and

(b) review days for the licence; and

Note—

For the consequences of a pipeline licence having review days, see division 7.

(c) the day it takes effect.

(3) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.

(4) If no day of effect is stated, the licence takes effect on the day it is granted.

(5) This section applies subject to section 412A.

412A Provisions about grant and conditions of licence for coordinated project

(1) This section applies if a pipeline licence or proposed pipeline licence is for a coordinated project.

(2) The Minister must not grant the licence until the Minister has been given the Coordinator-General's report for the project.

(3) Any Coordinator-General's conditions for the licence must be stated in the licence.

(4) Any other condition of the licence stated under section 412 must not be inconsistent with the Coordinator-General's conditions.

(5) If a mandatory condition for pipeline licences conflicts with any of the Coordinator-General's conditions, the Coordinator-General's condition prevails to the extent of the inconsistency.

413 Restriction on imposing takeover condition

(1) A pipeline licence may include a condition (a ***takeover condition***) that takeover action may be taken on grounds, or in circumstances, stated in the licence only if—

(a) the licence is a point-to-point pipeline licence; and

(b) the Minister is satisfied—

Not authorised—indicative only

Not authorised—indicative only

(i) an appropriate competitive tender process has been carried out to select the developer for the pipeline; and

(ii) a contract to which the State and the applicant are parties provides for the imposition of the condition.

(2) In this section—

takeover action means doing 1 or more of the following—

(a) cancelling the licence, other than by way of noncompliance action;

(b) transferring the pipeline to the State;

(c) taking over the construction of the pipeline;

(d) taking over the operation of the pipeline;

(e) transferring to the State the licence holder's interest in pipeline land for the pipeline;

(f) transferring 1 or more of the following to an entity other than the State—

(i) the pipeline;

(ii) the licence;

(iii) the licence holder's interest in pipeline land for the pipeline.

414 Provision for reduction of area of licence

A pipeline licence may provide that stated land ceases to be in the area of the licence if—

(a) construction of a stated pipeline is completed; and

(b) the land has not become pipeline land for the licence.

415 Criteria for decisions

(1) The matters that must be considered in deciding whether to grant a pipeline licence or deciding its provisions include each of the following—

(a) the applicant's financial and technical resources;

(b) the appropriateness of each pipeline for its purpose as stated in the application;

(c) for an area pipeline licence—the minimum area required for pipelines the subject of the licence;

(d) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest;

(e) the extent and nature of any proposed stated pipeline licence incidental activity for the licence;

(f) whether the proposed licence is in the public interest.

(2) In considering the extent and nature of any proposed stated pipeline licence incidental activity, the Minister must have regard to the following—

(a) whether the carrying out of the activity under the pipeline licence would have the overall effect of reducing impacts of authorised activities on land, landowners and the community;

(b) whether the activity is reasonably necessary for, or incidental to, carrying out an authorised activity for a petroleum lease, a petroleum facility licence or another pipeline licence;

(c) whether the activity would be more appropriately carried out under a petroleum lease, a petroleum facility licence or another pipeline licence.

Not authorised—indicative only

Not authorised—indicative only

416 Information notice about refusal

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

Division 4 Key mandatory conditions for pipeline licences

417 Operation of div 4

This division provides for particular mandatory conditions for pipeline licences.

Notes—

1 Chapter 5 also provides for mandatory conditions for pipeline licences.

2 For what is a mandatory condition, see section 20(2).

418 Obligations relating to safety management study

(1) A pipeline licence holder must—

(a) give the chief inspector notice of the holder's intention to start a safety management study for a pipeline the subject of the licence at least 20 business days before the study starts; and

Note—

For other relevant provisions about giving the chief inspector documents, see section 851AA.

(b) comply with any requirement prescribed by regulation about keeping a record relating to the study.

(2) However, if the licence is an area pipeline licence, subsection (1) only applies for each initial pipeline mentioned in the licence.

(3) An applicant for a pipeline licence may give a notice under subsection (1)(a).

(4) This section does not apply to the holder of a pipeline licence if the pipeline to be constructed is for transporting produced water.

(5) In this section—

safety management study, for a pipeline, means a process that is carried out before construction of the pipeline starts to identify, and apply controls to, threats to the safety and integrity of the pipeline.

419 Obligation to construct pipeline

(1) Subject to sections 401 and 419A, a pipeline licence holder must complete construction of the pipeline the subject of the licence on or before any completion day for the construction stated in the licence.

(2) However, if the licence is an area pipeline licence, subsection (1) only applies for each initial pipeline mentioned in the licence.

419A Notice to chief inspector before construction starts

(1) A pipeline licence holder must give the chief inspector notice of the holder's intention to start construction of the pipeline the subject of the licence at least 20 business days before the construction starts.

Maximum penalty—100 penalty units.

Note—

For other relevant provisions about giving the chief inspector documents, see section 851AA.

(2) However, if the licence is an area pipeline licence, subsection (1) only applies for each initial pipeline mentioned in the licence.

(3) An applicant for a pipeline licence may give a notice under subsection (1).

Not authorised—indicative only

Not authorised—indicative only

(4) The day stated for construction to start may be stated as the day the applicant becomes the holder of the licence.

(5) This section does not apply to the holder of a pipeline licence if the pipeline to be constructed is for transporting produced water.

420 Notice of completion of pipeline

(1) This section applies if—

(a) the construction of a pipeline under an area pipeline licence is completed; or

(b) a pipeline the subject of a point-to-point pipeline licence is completed.

(2) The licence holder must, within the relevant period, lodge a notice of completion of the pipeline.

(3) The notice must—

(a) state the day the pipeline was completed; and

(b) describe—

(i) the pipeline land for the licence; and

(ii) any public land in the area of the licence the holder reasonably requires to operate the pipeline; and

(c) include a diagram of the pipeline, as constructed or completed, that gives enough information to allow the pipeline to be located, including, for example, its depth of burial; and

(d) be accompanied by the handling fee to record the information, as prescribed under a regulation.

(4) In this section—

relevant period means the period that ends—

(a) for a pipeline the subject of a point-to-point pipeline licence—6 months after its completion; or

(b) for a pipeline under an area pipeline licence—40 business days after its completion.

421 Notice to public road authority of pipeline constructed on public road

If a pipeline licence holder constructs a pipeline on a public road, the holder must, within 6 months after completing the pipeline—

(a) give the public road authority for the road accurate details of the location of the pipeline; and

(b) keep complete and accurate records of the location of the pipeline.

422 Obligations in operating pipeline

(1) The holder of a pipeline licence must, after the pipeline has been constructed, operate it in a way that ensures its continuing capacity to safely and reliably transport—

(a) petroleum, fuel gas, produced water, prescribed storage gas or regulated hydrogen; and

(b) if, under section 402, the right to operate the pipeline is extended to include another substance—the other substance.

(2) The pipeline licence holder must not use the pipeline to transport a substance unless the substance is stated in the licence.

(3) It is a condition of a pipeline licence that the pipeline not remain unused for a continuous period of more than 3 years, unless the Minister otherwise agrees.

Note—

See also sections 559 (Obligation to decommission pipelines) and 804 (Duty to avoid interference in carrying out authorised activities).

Not authorised—indicative only

Not authorised—indicative only

422A Obligation to hold relevant environmental authority and water licence

The holder of a pipeline licence for transporting produced water must, for the term of the licence, be the holder of a relevant environmental authority for the licence.

423 Annual fees

(1) A pipeline licence holder must pay the State an annual licence fee as prescribed under a regulation.

(2) Subsection (3) applies to a pipeline licence holder if a pipeline the subject of the licence is a covered pipeline under the National Gas (Queensland) Law.

(3) The pipeline licence holder must also pay the State an annual fee, that is a proportion of the cost of the State's funding commitments to national energy market regulation, as prescribed by regulation.

(4) The fee mentioned in subsection (3) is calculated based on the kilometres of pipeline the subject of the holder's pipeline licence.

(5) A fee mentioned in subsection (1) or (3) must be paid in the way, and on or before the day, prescribed by regulation.

(6) In this section—

AEMC has the meaning given in the National Gas (Queensland) Law.

national energy market regulation means the functions and powers of the AEMC under the National Gas (Queensland) Law, section 69.

424 Civil penalty for nonpayment of annual fees

(1) If a pipeline licence holder does not pay a fee as required under section 423, the holder must also pay the State a civil penalty.

(2) The amount of the penalty is 15% of the fee.

(3) The penalty—

(a) must be paid on the day after the last day for payment of the fee; and

(b) is still payable even if the holder later pays the fee.

424A Power to impose or amend condition if changed holder of pipeline licence

(1) This section applies if 1 of the following changes happens—

(a) an entity starts or stops controlling the holder of a pipeline licence under the Corporations Act, section 50AA;

(b) the holder of a pipeline licence starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.

(2) The Minister may consider whether, after the change, the holder of the pipeline licence has the financial and technical resources to comply with the conditions of the pipeline licence.

(3) If the Minister considers the holder of the pipeline licence may not have the financial and technical resources to comply with conditions of the pipeline licence, the Minister may impose another condition on, or amend a condition of, the pipeline licence.

(4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of the pipeline licence to give the Minister information or a document about whether or not the change has happened.

(5) Before deciding to impose another condition on, or amend a condition of, the pipeline licence under subsection (3), the Minister may require the holder of the pipeline licence to give the Minister information or a document the Minister requires to make the decision.

Not authorised—indicative only

Not authorised—indicative only

(6) A requirement under subsection (4) or (5) must—

(a) be made by notice given to the holder; and

(b) state a period of at least 10 business days within which the holder must comply with the requirement.

(7) Before deciding to impose another condition on, or amend a condition of, the pipeline licence under subsection (3), the Minister must give the holder of the licence a notice stating—

(a) the proposed decision; and

(b) the reasons for the proposed decision; and

(c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.

(8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the pipeline licence.

(9) In deciding whether to impose another condition on, or amend a condition of, the pipeline licence under subsection (3), the Minister—

(a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and

(b) may consider any other matter the Minister considers relevant.

(10) If the Minister decides to impose another condition on, or amend a condition of, the pipeline licence under subsection (3), the Minister must, as soon as practicable after making the decision, give the holder a notice stating the decision and the reasons for the decision.

Division 5 Amendment of point-to-point pipeline licences after pipeline completed

425 Power to amend

If the holder of a point-to-point pipeline licence gives a notice under section 420, the Minister may amend the licence to reduce its area to—

(a) the pipeline land for the licence; and

(b) any public land in the area of the licence stated in the notice.

Division 6 Provisions for public land authorities

Subdivision 1 Public roads

426 Public road authority's obligations in aligning pipeline on road

If, under the Common Provisions Act, section 59, a public road authority imposes a condition about an alignment for a pipeline on, or proposed to be constructed on, a public road the alignment must be—

(a) situated to ensure reasonable protection for the pipeline and infrastructure proposed to be constructed in the carrying out of a stated pipeline licence incidental activity for the pipeline; and

(b) if practicable, on the footpath or verge of the road.

Not authorised—indicative only

Not authorised—indicative only

427 Requirement to consult if construction affects existing pipeline or infrastructure

(1) This section applies if a public road authority proposes to construct or change a public road in a way that is likely to affect the location, operation or safety of—

(a) a pipeline; or

(b) infrastructure constructed in the carrying out of a stated pipeline licence incidental activity.

(2) The authority must give the relevant pipeline licence holder a notice stating—

(a) details of the proposed road or proposed change; and

(b) that the holder may, within a stated period, lodge submissions to the authority about the proposal at the office of the authority stated in the notice.

(3) The stated period must not end before 30 business days after the notice is given.

(4) Before deciding to implement the proposal, the authority must consider any submissions lodged by the holder within the stated period.

(5) If the authority decides to implement the proposal, it must give the holder notice of the decision.

428 Costs of pipeline works caused by public road construction

(1) This section applies if—

(a) a public road authority constructs, or changes, a public road; and

(b) the road, or the road as changed, affects the safety, location or operation of—

(i) a pipeline constructed, or operated, or proposed to be constructed or operated; or

(ii) infrastructure constructed, or operated, or proposed to be constructed or operated, in the carrying out of a stated pipeline licence incidental activity; and

(c) because of the effects, it is necessary for the holder of the pipeline licence for the pipeline to carry out works relating to the pipeline or the infrastructure.

(2) The holder must bear the holder's own costs of carrying out the works if—

(a) the road existed before the pipeline or infrastructure was constructed; or

(b) the road is constructed on an area that was dedicated to public use as a road before the pipeline or infrastructure was constructed.

(3) Otherwise, the holder may recover from the authority as a debt any reasonable costs the holder incurs in carrying out the works.

429 Public road authority's obligation to give holder information

(1) This section applies if a pipeline licence holder asks a public road authority for a public road in the area of the licence for information about—

(a) the permanent level of the road; or

(b) the alignment allocated by the authority for a pipeline the subject of the licence.

(2) The authority must comply with the request within 20 business days after it is made.

(3) The information given must be accurate and as complete as possible.

Not authorised—indicative only

Not authorised—indicative only

430 Consequence of not giving information

If a public road authority does not comply with a request under section 429 about a public road, the pipeline licence holder that made the request may decide a reasonable permanent level and alignment for the road, based on—

(a) information available to the holder; and

(b) any standards prescribed under section 557(1)(b) for constructing pipelines on roads.

Subdivision 2 Works directions

431 Power to give works directions

(1) This section applies if—

(a) a pipeline licence holder proposes to construct, has constructed, or is constructing—

(i) a pipeline on or through public land; or

(ii) infrastructure in the carrying out of a stated pipeline licence incidental activity; and

(b) the public land authority for the land has imposed a condition relating to the construction; and

(c) the authority reasonably considers works should be carried out to ensure compliance with the condition.

(2) The authority, may give the holder a notice (a ***works direction***) directing the holder to carry out stated works to comply with the condition within a stated reasonable period.

(3) The works direction must—

(a) identify the relevant condition; and

(b) include, or be accompanied by, an information notice about the decision to make the works direction.

(4) Works stated in a works direction must comply with any standard prescribed under a regulation for carrying out the works to the extent the standard is relevant to the works.

432 Compliance with works direction

(1) A pipeline licence holder to whom a works direction has been given must, within the period stated in it, comply with the direction to the reasonable satisfaction of the public land authority that gave the direction.

(2) If the holder does not comply with subsection (1) the authority may ensure the works the subject of the direction are carried out.

(3) The authority may recover from the holder as a debt any reasonable costs the authority incurs in ensuring the works are carried out.

Division 7 Ministerial review of pipeline licence conditions

433 Application of div 7

This division applies only if a pipeline licence states a review day.

434 Power to review licence

(1) The Minister may, by complying with sections 435 and 436, amend the pipeline licence if satisfied—

(a) the conditions of the licence—

(i) are no longer appropriate; or

(ii) do not make provision, or sufficient provision, about a matter; and

(b) the amendment is necessary or desirable.

Not authorised—indicative only

Not authorised—indicative only

(2) However, the licence can not be amended in a way that is inconsistent with the mandatory conditions for pipeline licences.

(3) This section does not limit the power to amend the licence under another provision of this Act.

435 Notice of proposed amendment

(1) The Minister must give the pipeline licence holder a notice stating each of the following—

(a) the proposed amendment;

(b) the conditions of the licence that the Minister considers are no longer appropriate or the matter about which the conditions do not make provision, or sufficient provision;

(c) reasons why the Minister considers the amendment to be necessary or desirable;

(d) that the holder may, within a stated reasonable period, lodge submissions about the proposed amendment.

(2) The stated period must not end before 20 business days after the notice is given.

436 Decision on proposed amendment

(1) Before deciding the proposed amendment, any submissions lodged within the period stated in the notice given under section 435 must be considered.

(2) If a decision is made not to make the proposed amendment, the holder must be given notice of the decision.

(3) If, after considering the submissions, the Minister is still satisfied under section 434(1), the amendment may be made.

(4) On deciding to make the amendment, the holder must be given an information notice about the decision.

(5) The amendment takes effect on the end of the appeal period for the decision, or if a later day of effect stated in the notice, on the later day.

Division 8 Miscellaneous provisions

437 Limitation of pipeline licence holder's liability

(1) This section applies if a person incurs a cost, damage or loss because of—

(a) the partial or total failure of a pipeline licence holder to transport petroleum, fuel gas or regulated hydrogen through a pipeline; or

(b) fuel gas not of the prescribed quality being transported through a pipeline the subject of a pipeline licence.

(2) However, this section does not apply to the extent to which liability for the cost, damage or loss is, under a contract, agreed between the person and the licence holder.

(3) The licence holder is not civilly liable for the cost, damage or loss if—

(a) the failure, or the fuel gas being not of the prescribed quality, was caused by a circumstance beyond the holder's control; and

(b) the holder's operation of the pipeline—

(i) complied with this Act and the conditions of the licence; and

(ii) was carried out in good faith and without negligence.

(4) Subsection (3) does not limit section 7(3).

Not authorised—indicative only

Not authorised—indicative only

437A Creation of easement by registration

(1) An easement over pipeline land or public land may be created for a pipeline licence holder by registering a document creating the easement under the *Land Act 1994* or an instrument of easement under the *Land Title Act 1994*.

(2) Subsection (1)—

(a) applies even though the easement is not attached to, or used or enjoyed with, other land; and

(b) is subject to—

(i) the *Land Act 1994*, other than section 369(2); and

(ii) the *Land Title Act 1994*, other than section 89(2).

(3) The *Land Act 1994*, chapter 6, part 4, division 8 or the *Land Title Act 1994*, part 6, division 4 applies to the easement as if—

(a) it were a public utility easement; and

(b) the pipeline licence holder were a public utility provider; and

(c) if the land is forest land—

(i) a reference in the *Land Act 1994*, sections 362(1), 363(1)(c) and 369A(1) to the Minister were a reference to the Minister administering the *Forestry Act 1959*, part 4; and

(ii) the owner of the land were the chief executive of the department administering the *Forestry Act 1959*, part 4.

Note—

Under the *Land Act 1994*, section 363(4), the owner of a reserve or of unallocated State land for the purpose of consenting to the creation of an easement is the State.

(4) This section applies despite the *Forestry Act 1959*, section 26(1A).

(5) In this section—

forest land means land that is a State forest or timber reserve under the *Forestry Act 1959*.

Part 3 Petroleum facility licences

Note—

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

Division 1 Key authorised activities

Subdivision 1 Preliminary

438 Operation of div 1

(1) This division provides for the key authorised activities for a petroleum facility licence.

Notes—

1 For other authorised activities, see chapter 5, part 8 and the Common Provisions Act, chapter 3, part 6.

2 The carrying out of particular activities on particular land in a petroleum facility licence's area may not be authorised following the taking of the land under a resumption law. See section 30AB.

(2) The authorised activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

(3) However, the carrying out of the authorised activities is subject to—

(a) subdivision 2; and

(b) chapter 5; and

(c) the mandatory and other conditions of the licence; and

(d) any exclusion or restriction provided for in the licence on the carrying out of the activities; and

Not authorised—indicative only

Not authorised—indicative only

(e) the Common Provisions Act.

439 What is *petroleum facility land* for a petroleum facility licence

(1) ***Petroleum facility land***, for a petroleum facility licence, is land—

(a) that the licence holder owns; or

(b) over which the holder—

(i) holds an appropriate easement for the construction or operation of the petroleum facility; or

(ii) has obtained the owner's written permission to enter to construct or operate the petroleum facility; or

(iii) holds a part 5 permission to enter to construct or operate the petroleum facility.

(2) To remove any doubt, it is declared that—

(a) the granting of a petroleum facility licence does not, of itself, create an easement for the construction or operation of the petroleum facility; and

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

Subdivision 2 General restriction on authorised activities

440 Restriction if there is an existing mining lease

(1) This section applies if land in the area of a petroleum facility licence is also in the area of a mining lease (the ***existing lease***) that was granted before the licence.

(2) The petroleum facility licence holder may carry out an authorised activity for the licence on land within the area of the existing lease only if—

(a) both of the following apply—

(i) the existing lease holder has agreed in writing to the carrying out of the activity;

(ii) the petroleum facility licence holder has given a copy of the agreement mentioned in subparagraph (i) to the chief executive; or

(b) both of the following apply—

(i) carrying out the activity is consistent with an agreed co-existence plan;

(ii) the petroleum facility licence holder has given a notice to the chief executive stating the following—

(A) that the plan is in place;

(B) the period for which the plan has effect;

(C) other information prescribed by regulation.

(3) An agreed co-existence plan must—

(a) identify the parties to the plan; and

(b) set out an overview of the activities proposed to be carried out in the area mentioned in subsection (1), including the location of the activities and when they will start; and

(c) set out how the activities mentioned in paragraph (b) will comply with mining safety legislation; and

(d) state how the activities mentioned in paragraph (b) optimise the development and use of the State's resources; and

(e) state whether any monetary or non-monetary compensation is to be given under the plan; and

Not authorised—indicative only

Not authorised—indicative only

(f) state the period for which the plan is to have effect; and

(g) include any other information prescribed by regulation.

(4) The petroleum facility licence holder may give the existing lease holder a notice (the ***negotiation notice***) that the petroleum facility licence holder wishes to negotiate a co-existence plan with the existing lease holder.

(5) The negotiation notice is invalid if it does not comply with the prescribed requirements for the notice.

(6) The petroleum facility licence holder and the existing lease holder must negotiate in good faith and use all reasonable endeavours to agree on a co-existence plan.

(7) If the petroleum facility licence holder and the existing lease holder can not agree on a co-existence plan within 3 months after the giving of the negotiation notice, the petroleum facility licence holder may apply for arbitration of the dispute.

(8) Despite subsection (7), the petroleum facility licence holder and the existing lease holder may jointly apply for arbitration of the dispute at any time.

(9) It is a condition of both the petroleum facility licence and the existing lease that the holder must comply with each agreed co-existence plan that applies to the holder.

(10) In this section—

agreed co-existence plan means—

(a) if an agreed co-existence plan is agreed on under subsection (6)—the agreed co-existence plan; or

(b) if an agreed co-existence plan is amended by the holders of the petroleum facility licence and the existing mining lease—the agreed co-existence plan as amended; or

(c) if an agreed co-existence plan is arbitrated as an agreed co-existence plan under the Common Provisions Act, chapter 5, part 3—the agreed co-existence plan as arbitrated.

Subdivision 3 Petroleum facility construction and operation

441 Construction and operation of petroleum facility

(1) The holder of a petroleum facility licence may, on the petroleum facility land for the licence, construct or operate the petroleum facility.

(2) However, if native title exists in relation to the petroleum facility land, the holder must have or hold an interest or permission mentioned in section 439(1)(b) for the native title rights and interests.

(3) To remove any doubt, it is declared that the mere grant of the licence does not, of itself, authorise the construction or operation of the petroleum facility on other land in the area of the licence.

442 Incidental activities

(1) This section applies if, under section 441, a petroleum facility licence holder has the right to construct or operate a petroleum facility.

(2) The holder may carry out an activity (an ***incidental activity***) in the area of the licence if carrying out the activity is reasonably necessary for the construction or operation.

Examples of incidental activities—

1 constructing or operating plant or works, including, for example, bridges, powerlines, roads, trenches and tunnels

2 constructing or using temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps

3 removing vegetation for, or for the safety of, the construction or operation of the petroleum facility

Note—

See also chapter 5 (Common petroleum authority provisions) and section 20 (What are the *conditions* of a petroleum authority).

Not authorised—indicative only

Not authorised—indicative only

(3) However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

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

442A When petroleum facility licence not required

A petroleum facility licence is not required for—

(a) a facility constructed or operated under—

(i) the *Amoco Australia Pty. Limited Agreement Act 1961*; or

(ii) the *Ampol Refineries Limited Agreement Act 1964*; or

(b) the construction or operation of a petroleum facility for the distillation, processing, refining, storage or transport of petroleum authorised under—

(i) section 33; or

(ii) a petroleum lease or pipeline licence under this Act; or

(iii) a 1923 Act petroleum tenure.

Division 2 Obtaining petroleum facility licence

Subdivision 1 Applying for petroleum facility licence

443 Who may apply

(1) A person may apply for a petroleum facility licence for a petroleum facility or proposed petroleum facility.

(2) However, if the facility is partly on the area of a petroleum lease and partly on other land, a person can not apply for a petroleum facility licence in relation to the facility unless the application is for the whole of the facility.

445 Requirements for making application

The application must—

(a) be in the approved form; and

(b) state each of the following—

(i) the petroleum facility, or proposed petroleum facility, the subject of the application;

(ii) a description of the proposed petroleum facility land for the licence;

(iii) the precise location of the facility, or proposed petroleum facility on the land;

(iv) the purpose of the facility;

(v) for a proposed facility—a proposed day for the completion of the construction of the facility;

(vi) the extent and nature of activities proposed to be carried out under the licence; and

(c) if the area of the licence is, or is included in, the area of another petroleum authority or a mining

Not authorised—indicative only

Not authorised—indicative only

interest—identify possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest; and

(d) address the criteria mentioned in section 448(a); and

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

445A Notice of application to relevant local government

(1) The applicant must, within 10 business days after making the application, give each relevant local government a notice stating the application details under section 445(b) for the proposed application.

(2) If subsection (1) is not complied with, the application lapses.

(3) To remove any doubt, it is declared that the lapsing of the application under subsection (2) does not of itself prevent the former applicant making another petroleum facility licence application.

(4) In this section—

relevant local government means a local government in whose local government area the petroleum facility is proposed to be constructed under the licence.

445B Rejection of application if applicant disqualified

(1) The Minister must reject an application for a petroleum facility licence if the Minister decides the applicant is disqualified under the Common Provisions Act, chapter 7 from being granted the petroleum facility licence.

(2) On rejection of the application, the Minister must give the applicant a notice about the decision.

Subdivision 2 Deciding petroleum facility licence application

446 Deciding whether to grant licence

(1) The Minister may—

(a) subject to section 447A, decide to grant the applicant a petroleum facility licence only if—

(i) the applicant is an eligible person; and

(ii) a relevant environmental authority for the licence has been issued; and

(b) before granting the licence, require the applicant to do all or any of the following within a stated reasonable period—

(i) pay the licence fee for the first year of the proposed licence;

(ii) give, under section 488, security for the licence.

Note—

If the application relates to acquired land, see also section 30AC.

(2) If the applicant does not comply with a requirement under subsection (1), the Minister may refuse to grant the licence.

447 Provisions of licence

(1) Each petroleum facility licence must state—

(a) its term and area; and

(b) if the facility the subject of the licence has not already been constructed—a day by which its holder must complete construction of the facility.

(2) The term must end no later than 30 years after the licence takes effect.

(3) The area of the licence must be the area that the Minister considers is the minimum area needed to adequately carry out

Not authorised—indicative only

Not authorised—indicative only

the purpose of the petroleum facility or proposed petroleum facility.

(4) The licence may also state—

(a) conditions or other provisions of the licence, other than conditions or provisions that are—

(i) inconsistent with the mandatory conditions for petroleum facility licences; or

Note—

For mandatory conditions, see division 3 (Key mandatory conditions for petroleum facility licences) and chapter 5, part 8 (General provisions for conditions and authorised activities).

(ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and

(b) the day it takes effect.

(5) However, the provisions of the licence may exclude or restrict the carrying out of an authorised activity for the licence.

(6) If no day of effect is stated, the licence takes effect on the day it is granted.

(7) This section applies subject to section 447A.

447A Provisions about grant and conditions of licence for coordinated project

(1) This section applies if a petroleum facility licence or proposed petroleum facility licence is for a coordinated project.

(2) The Minister must not grant the licence until the Minister has been given the Coordinator-General's report for the project.

(3) Any Coordinator-General's conditions for the licence must be stated in the licence.

(4) Any other condition of the licence stated under section 447 must not be inconsistent with the Coordinator-General's conditions.

(5) If a mandatory condition for petroleum facility licences conflicts with any of the Coordinator-General's conditions, the Coordinator-General's condition prevails to the extent of the inconsistency.

448 Criteria for decisions

The matters that must be considered in deciding whether to grant a petroleum facility licence or deciding its provisions include each of the following—

(a) the applicant's—

(ii) financial and technical resources; and

(ii) ability to competently and safely manage the construction and operation of the proposed petroleum facility;

(b) for a proposed petroleum facility, the appropriateness of its—

(i) location on the proposed petroleum facility land; and

(ii) configuration, design and construction methods;

(c) if the area of the licence is, or is included in, the area of another petroleum authority or a mining interest—any possible impacts of authorised activities under the licence on authorised activities under the other petroleum authority or on mining under the mining interest;

(d) the purpose of the facility;

(e) whether the proposed licence is in the public interest.

448A Provision for facility already the subject of a pipeline licence

(1) This section applies if—

(a) the application is granted; and

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Not authorised—indicative only

(b) the application was for a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a pipeline licence held by the applicant.

(2) Despite section 16(2), the facility ceases to be a part of any pipeline the subject of the pipeline licence.

(3) The operation of the facility ceases to be an authorised activity for the pipeline licence.

449 Information notice about refusal

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

Division 3 Key mandatory conditions for petroleum facility licences

450 Operation of div 3

This division provides for particular mandatory conditions for petroleum facility licences.

Notes—

1 Chapter 5 also provides for mandatory conditions for petroleum facility licences.

2 For what is a mandatory condition, see section 20(2).

452 Obligation to construct facility

A petroleum facility licence holder must complete construction of the petroleum facility the subject of the licence on or before any completion day for the construction stated in the licence.

453 Obligation to operate facility

The holder of a petroleum facility licence must, after the facility has been constructed, operate it in a way that ensures the continuing of the facility for the purpose for which it is licensed.

454 Annual licence fee

(1) A petroleum facility licence holder must pay the State an annual licence fee as prescribed under a regulation.

(2) The fee must be paid in the way, and on or before the day, prescribed under a regulation.

455 Civil penalty for nonpayment of annual licence fee

(1) If a petroleum facility licence holder does not pay an annual licence fee as required under section 454, the holder must also pay the State a civil penalty.

(2) The amount of the penalty is 15% of the fee.

(3) The penalty—

(a) must be paid on the day after the last day for payment of the fee; and

(b) is still payable even if the holder later pays the fee.

455A Power to impose or amend condition if changed holder of petroleum facility licence

(1) This section applies if 1 of the following changes happens—

(a) an entity starts or stops controlling the holder of a petroleum facility licence under the Corporations Act, section 50AA;

(b) the holder of a petroleum facility licence starts or stops being a subsidiary of a corporation under the Corporations Act, section 46.

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Not authorised—indicative only

(2) The Minister may consider whether, after the change, the holder of the petroleum facility licence has the financial and technical resources to comply with the conditions of the petroleum facility licence.

(3) If the Minister considers the holder of the petroleum facility licence may not have the financial and technical resources to comply with conditions of the petroleum facility licence, the Minister may impose another condition on, or amend a condition of, the petroleum facility licence.

(4) If the Minister believes a change mentioned in subsection (1) may have happened, the Minister may require the holder of the petroleum facility licence to give the Minister information or a document about whether or not the change has happened.

(5) Before deciding to impose another condition on, or amend a condition of, the petroleum facility licence under subsection (3), the Minister may require the holder of the petroleum facility licence to give the Minister information or a document the Minister requires to make the decision.

(6) A requirement under subsection (4) or (5) must—

(a) be made by notice given to the holder; and

(b) state a period of at least 10 business days within which the holder must comply with the requirement.

(7) Before deciding to impose another condition on, or amend a condition of, the petroleum facility licence under subsection (3), the Minister must give the holder of the licence a notice stating—

(a) the proposed decision; and

(b) the reasons for the proposed decision; and

(c) that the holder may, within 10 business days after the notice is given, make submissions to the Minister about the proposed decision.

(8) The Minister may extend the period mentioned in subsection (6)(b) or (7)(c) by notice given to the holder of the petroleum facility licence.

(9) In deciding whether to impose another condition on, or amend a condition of, the petroleum facility licence under subsection (3), the Minister—

(a) must consider information or a document, if any, given under subsection (6)(b) or (7)(c); and

(b) may consider any other matter the Minister considers relevant.

(10) If the Minister decides to impose another condition on, or amend a condition of, the petroleum facility licence under subsection (3), the Minister must, as soon as practicable after making the decision, give the holder a notice stating the decision and the reasons for the decision.

Part 4 Taking land for pipelines and petroleum facilities

456 State's power to take land

(1) This section applies subject to sections 457 and 458.

(2) The State may take land, or an interest in land for—

(a) the carrying out of authorised activities for a licence or proposed licence; or

(b) petroleum processing, storage or transport, including, for example, to construct and operate a pipeline.

(3) The power to take land may be exercised—

(a) for the State by the Minister; and

(b) whether or not the State proposes to transfer the land, or an interest in the land, to someone else.

(4) To remove any doubt, it is declared that if the land is held from the State under the *Land Act 1994* or another Act, the power is as well as, and is not limited by, any power under the *Land Act 1994* or other Act to forfeit or take the land or the interest under which it is held.

Not authorised—indicative only

Not authorised—indicative only

(5) In this section—

licence does not include a survey licence.

457 Restrictions on power to take land

(1) The State may take land under section 456 only if the Minister is satisfied—

(a) the area of the land is the minimum area needed to adequately carry out the activities for which it is taken; and

(b) other land is not more appropriate for carrying out the activities; and

(c) the taking of the land is in the public interest.

(2) Also, the State may take land for authorised activities for a petroleum facility licence, or proposed petroleum facility licence, for a facility to be used in connection with a pipeline or proposed pipeline only if the Minister is satisfied the licence holder, or proposed licence holder, has decided the site of the pipeline.

458 Process for taking land

(1) The *Acquisition of Land Act 1967* (the ***ALA***) applies for taking land under section 456 and paying compensation for land taken as if—

(a) the taking were a taking under that Act by a constructing authority; and

(b) the reference in the ALA, section 5(1)(c) to the taking of land for a purpose stated in the schedule to that Act were a reference to the taking of land for a purpose mentioned in section 456(2); and

(c) the constructing authority were the State; and

(d) the reference in the ALA to the relevant Minister is a reference to the Minister administering this Act.

Note—

However, for land where native title exists, see sections 8 and 855.

(2) Taking land under section 456 does not become a taking of land under the ALA.

(3) In assessing the compensation, allowance can not be made for the value of petroleum known or supposed to be on or under, or produced from, the land.

Note—

See also section 462 (Disposal of land taken by State).

459 Recovery of costs and compensation from holder or proposed holder

(1) This section applies if the State incurs, or becomes liable to pay—

(a) costs relating to—

(i) the taking under section 456(2) of land for the carrying out of authorised activities for a licence or proposed licence; or

(ii) the transfer of the land to the relevant person; or

(iii) the negotiation of the transfer, or any contract relating to the transfer; or

(b) assessed compensation for the taking; or

(c) costs relating to the compensation or its assessment; or

(d) interest on the compensation or costs.

(2) The State may recover from the relevant person as a debt—

(a) the reasonable amount of the costs; and

(b) the amount of the assessed compensation and the interest.

(3) In this section—

relevant person means—

Not authorised—indicative only

Not authorised—indicative only

(a) relevant licence holder; or

(b) if the taking was for authorised activities for a proposed licence—the person who proposed to obtain the licence.

460 Power to enter land proposed to be taken

(1) The Minister may authorise a person (the ***authorised person***) to enter land proposed to be taken under section 456 to report to the Minister about the suitability of the land for the purpose for which it is proposed to be taken.

(2) Subsection (1) applies even if the process for taking the land has not started.

(3) The authorisation—

(a) must be written; and

(b) may be given on conditions the Minister considers appropriate.

(4) Subject to section 461, the authorised person may enter the land and carry out activities necessary or convenient for the report.

(5) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.

461 Requirements for entry to land proposed to be taken

(1) An authorised person under section 460 may enter land proposed to be taken only if the following person is given notice of the proposed entry at least 10 business days before the proposed entry—

(a) if the land has an occupier—any occupier of the land;

(b) if the land does not have an occupier—its owner.

(2) The notice must—

(a) identify the authorised person; and

(b) describe the land; and

(c) state—

(i) that the authorised person has, under this section, been authorised to enter the land; and

(ii) the purpose of the entry; and

(iii) the period of the entry.

(3) The chief executive may approve the giving of the notice by publishing it in a stated way.

(4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.

(5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person's authorisation under this section.

462 Disposal of land taken by State

(1) The State may transfer land taken under section 456 to anyone else, including, for example, the holder or proposed holder of a licence for the land.

(2) The *Acquisition of Land Act 1967*, section 41, applies to land taken under section 456.

(3) However, subsection (2) only applies if the State has not offered, or proposed to offer, the land for sale to any holder, or proposed holder, of a licence the area of which includes the land.

Not authorised—indicative only

Not authorised—indicative only

Part 5 Permission to enter land to exercise rights under a pipeline or petroleum facility licence

Division 1 Applying for and obtaining permission

463 Applying for permission

(1) A person who holds, or who has applied for, a pipeline licence may apply for permission (a ***part 5 permission***) to enter the area, or proposed area, of the licence to construct or operate a pipeline the subject of the licence or proposed licence.

(2) A person who holds, or who has applied for, a petroleum facility licence may apply for permission (also a ***part 5 permission***) to enter the area, or proposed area, of the licence to construct or operate the petroleum facility the subject of the licence or proposed licence.

464 Requirements for making application

An application for a part 5 permission must—

(a) be in the approved form; and

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

(c) state the steps the applicant has taken to—

(i) become the owner of the land; or

(ii) be granted an appropriate easement to construct or operate the pipeline or petroleum facility; or

(iii) obtain the permission of the owner of the land to enter the land to construct or operate the pipeline or petroleum facility.

Note—

See sections 401 (Construction and operation of pipeline) and 441 (Construction and operation of petroleum facility).

465 Notice to owners about application

(1) The applicant must give each owner of the land notice (a ***consultation notice***) of the application.

(2) The consultation notice must describe the land and state—

(a) the purpose of the proposed part 5 permission; and

(b) any conditions the applicant proposes for the part 5 permission; and

(c) a period (the ***consultation period***) during which—

(i) the applicant will consult with each owner about the proposed permission and the conditions; and

(ii) an owner may lodge submissions about the proposed part 5 permission and the conditions.

(3) The consultation period must end at least 20 business days after each owner has been given the consultation notice.

(4) The period may be extended by agreement between the applicant for the part 5 permission and the owner.

466 Change in ownership during consultation period

(1) This section applies if—

(a) an owner of the land (the ***former owner***) has been given a consultation notice; and

(b) after the notice was given, the ownership of the land changes.

(2) The applicant is taken to have given the notice to the new owner of the land when the former owner was given the notice.

Not authorised—indicative only

Not authorised—indicative only

(3) If the applicant becomes aware of the change, the applicant must give the new owner a copy of the notice.

(4) A failure to comply with subsection (3) does not prevent the application from being decided.

467 Deciding application

(1) The Minister may, after the consultation period has ended, grant or refuse the part 5 permission.

(2) The Minister may impose conditions on the part 5 permission.

468 Criteria for decision

(1) The Minister may grant the part 5 permission only if satisfied of each of the following—

(a) the applicant has given each owner of the land a consultation notice and the applicant has shown that each owner of the land has received the notice;

(b) either—

(i) the consultation period has ended and the Minister is reasonably satisfied the applicant has made reasonable attempts to consult with each owner of the land; or

(ii) before the end of the consultation period each owner of the land has—

(A) agreed to the grant of the part 5 permission; or

(B) given the applicant permission to enter the land;

(c) the applicant has decided the site of the pipeline or facility;

(d) it is reasonable to site the pipeline or petroleum facility on the land;

(e) the land the subject of the part 5 permission is the minimum area needed for the permission;

(f) the granting of the part 5 permission is in the public interest.

(2) In deciding the application any submissions lodged by an owner of the land during the consultation period must be considered.

469 Statement of proposed resumption may be included

The part 5 permission may include a statement that the State intends to resume the land the subject of the permission if the land is not, other than because of the permission, pipeline land or petroleum facility land for the licence, or proposed licence within 9 months after the permission takes effect.

Note—

For the State's power to take the land, see part 4.

470 Steps after and taking effect of part 5 permission

(1) On granting of the part 5 permission, the applicant and the owner of the land the subject of the permission must be given a copy of it.

(2) The permission takes effect on the later of the following days—

(a) the day it is granted;

(b) if the applicant does not hold the relevant pipeline or petroleum facility licence—the day the licence is granted;

(c) another day fixed by the Minister.

Note—

For the authorised activities that may be carried out when the part 5 permission takes effect (and, if the licence has not been granted, when it is granted), see sections 401 and 441.

If the licence has not yet been granted, see also section 802 and 803.

Not authorised—indicative only

Not authorised—indicative only

(3) The Minister must, after granting the part 5 permission, publish it in the gazette.

Division 2 Effect and term of part 5 permission

471 Effect of part 5 permission

(1) The effect of the part 5 permission is that, under section 399 or 439, the land the subject of the permission becomes pipeline land or petroleum facility land for the licence.

(2) The part 5 permission does not, of itself, give the holder the right to carry out authorised activities for the licence.

Note—

The Common Provisions Act, chapter 3 provides for how the holder may enter the land to carry out authorised activities.

472 Term of part 5 permission

(1) A part 5 permission ceases to be in force—

(a) if the land the subject of the permission becomes, other than because of the permission, pipeline land or petroleum facility land for the relevant licence; or

(b) if it is cancelled under section 473; or

(c) 9 months after it is granted.

(2) However, if the State has, within the 9 months, given a notice of intention to resume the land under part 4, the part 5 permission continues in force until—

(a) the land is taken under part 4 and it is transferred to the licence holder; or

(b) the taking of the land is discontinued.

Note—

See section 458 (Process for taking land) and the *Acquisition of Land Act 1967*, part 3 (Discontinuance of taking of land).

(3) On the part 5 permission ceasing to be in force, the Minister must gazette a notice stating that it is no longer in force.

473 Power to cancel part 5 permission

(1) The Minister may cancel the part 5 permission at any time.

(2) The cancellation takes effect when the holder is given an information notice about the decision to cancel or, if the notice states a later day of effect, on that later day.

Part 6 Amending licence by application

474 Amendment applications that may be made

(1) A licence holder may apply for the amendment of the licence.

Examples of how a licence may be amended—

- changing, removing or adding a new condition
- for a pipeline or petroleum facility licence—
  - changing any configuration or specification stated in the licence for the pipeline or facility; or
  - increasing or reducing the area of the pipeline or petroleum facility land
- for a pipeline licence—changing a route of a pipeline or amending the licence to include the carrying out of stated pipeline licence incidental activities

(2) Despite subsection (1), an application can not be made to amend the licence in a way that is—

(a) inconsistent with a mandatory condition, other than to change the completion day for construction stated in the licence; or

Note—

See sections 419 (Obligation to construct pipeline) and 452 (Obligation to construct facility).

Not authorised—indicative only

Not authorised—indicative only

(b) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence.

475 Requirements for making application

The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

476 Notice requirements

(1) This section applies for the application if it seeks to extend the area of the licence.

(2) If the area is for a pipeline, sections 409A and 411 apply as if the application was a pipeline licence application for the proposed extended area.

(3) If the area is for a petroleum facility, section 445A applies as if the application was a petroleum facility licence application for the proposed extended area.

477 Deciding application

(1) The Minister may grant or refuse the amendment.

(2) In deciding the application, the relevant criteria under this chapter for deciding an application to obtain the licence must, to the extent they are relevant, be considered.

Note—

See sections 397, 415 and 448 (Criteria for decisions).

(3) The Minister may grant the application subject to the applicant's written agreement to the Minister amending the licence in a stated way that the Minister considers appropriate.

Examples—

An application is to extend a pipeline or petroleum facility. The Minister may grant the application subject to the applicant agreeing in

writing to the Minister amending the licence so that the extension must be completed—

(a) by a stated day; or

(b) in accordance with a stated standard or specification.

478 Information notice about refusal

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

Part 7 Renewals

478A Survey licence can not be renewed

A survey licence can not be renewed.

479 Conditions for renewal application for other types of licence

(1) The holder of a licence, other than a survey licence, may apply to renew the licence only if none of the following is outstanding—

(a) an annual licence fee for the licence;

(b) a civil penalty under section 424 or 455 for nonpayment of an annual licence fee;

(c) interest payable under section 588 on the annual licence fee or civil penalty;

(d) security for the licence, as required under section 488.

(2) Also, the application can not be made—

(a) more than 60 business days before the end of the term of the licence; or

(b) after the licence has ended.

Not authorised—indicative only

Not authorised—indicative only

480 Requirements for making application

The application must be—

(a) in the approved form; and

(b) state whether or not the applicant has complied with chapter 5, part 7, for reports required to be lodged in relation to the licence; and

(c) accompanied by—

(i) the application fee prescribed under a regulation; and

(ii) if the application is made less than 20 business days before the end of the term of the licence—an amount that is 10 times the application fee.

481 Continuing effect of licence for renewal application

(1) This section applies if the term of the licence ends before the application is decided.

(2) Despite the ending of the term, the licence continues in force until the earlier of the following to happen—

(a) the start of any renewed term of the licence; or

(b) a refusal of the application takes effect; or

(c) the application is withdrawn; or

(d) the licence is cancelled under this Act.

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

482 Deciding application

(1) The Minister may grant or refuse the renewal.

(2) However, the Minister must grant the renewal if the Minister considers—

(a) the applicant—

(i) continues to be capable of carrying out authorised activities for the licence; and

(ii) has substantially complied with the licence; and

(b) a relevant environmental authority for the renewed licence has been issued.

Note—

See also section 30AC in relation to acquired land that was previously in the area of the licence being renewed.

(3) Also, the Minister may, as a condition of deciding to grant the application, require the applicant to do all or any of the following within a stated reasonable period—

(a) pay the annual licence fee for the first year of the renewed licence;

(b) give, under section 488, security for the renewed licence.

(4) If the applicant does not comply with the requirement, the Minister may refuse the application.

483 Provisions and term of renewed licence

(1) The conditions of the renewed licence may be different from the conditions or other provisions of the licence being renewed.

(2) However, a takeover condition may be imposed on a renewed licence only if the licence being renewed was subject to that condition.

(3) The renewed licence must state its term.

(4) The renewed licence may also state—

(a) conditions or other provisions of the renewed licence, other than conditions or provisions that are—

(i) inconsistent with the mandatory conditions for that type of licence; or

Not authorised—indicative only

Not authorised—indicative only

(ii) the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the licence; and

(b) a day for the renewed licence to take effect.

(5) However, the provisions of the renewed licence may exclude or restrict the carrying out of an authorised activity for the licence.

(6) If the renewed licence is decided before the end of the term of the licence being renewed as stated in that licence (the ***previous term***), the term of the renewed licence is taken to start from the end of the previous term.

(7) If the renewed licence is decided after the previous term, the term of the renewed licence starts immediately after the end of the previous term, but—

(a) the conditions of the renewed licence do not start until the licence holder is given notice of them; and

(b) until the notice is given, the conditions of the licence being renewed apply to the renewed licence as if they were its conditions.

484 Criteria for decisions

The matters that must be considered in deciding the renewal application and the provisions of the renewed licence include—

(a) if the licence being renewed is a pipeline licence and the applicant proposes to change the pipelines the subject of the licence—the matters mentioned in section 415 to the extent they are relevant to the change; or

(b) if the licence being renewed is a petroleum facility licence and the applicant proposes to change the facility—the appropriateness of the configuration, construction methods, and design for the change.

485 Information notice about refusal

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

486 When refusal takes effect

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

Chapter 5 Common petroleum authority provisions

Note—

See also chapter 1, part 5 (General provisions for petroleum authorities) and chapter 14, part 2 (Miscellaneous provisions for all authorities under Act).

Part 1 Security

487 Operation and purpose of pt 1

(1) This part empowers the Minister to require, from time to time, the holder of a petroleum authority, or a person who has applied for a petroleum authority, to give the State security for the authority, or proposed authority.

(2) The security may be used to pay—

(a) any liability under this Act that the State incurs because of an act or omission of the holder; and

(b) unpaid petroleum royalty or annual licence fee or rent payable by the holder to the State; and

Not authorised—indicative only

Not authorised—indicative only

(c) other unpaid amounts payable under this Act by the holder to the State, including, for example, any of the following payable by the holder to the State—

(i) unpaid interest on unpaid petroleum royalty or annual rent;

(ii) unpaid civil penalty or penalty tax;

(iii) any debt payable by the holder under section 587; and

(d) for a petroleum authority that is a petroleum lease—unpaid rates and charges, including unpaid interest on overdue rates and charges, payable to the local government in whose area the lease is situated; and

(e) any compensation the State must pay under section 584 because of the exercise, or purported exercise, of a remedial power under section 580 in relation to the authority, whether or not the authority has ended.

488 Power to require security for petroleum authority

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

(2) The security must be—

(a) in the form prescribed under a regulation; and

(b) of at least the amount prescribed under a regulation.

(3) The requirement may be made at any time.

(4) However, the requirement does not take effect until the holder or applicant is given—

(a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or

(b) otherwise—an information notice about the decision to make the requirement.

489 Minister's power to require additional security

(1) The Minister may, at any time, require a petroleum authority holder to increase the amount of security given for the authority.

(2) However—

(a) if, because of an increase in the prescribed amount under section 488(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or

(b) if the requirement is to increase the total security required to more than the prescribed amount under section 488(2) when the requirement is made—

(i) subsections (3) to (6) must be complied with before making the requirement; and

(ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.

(3) The Minister must give the holder notice—

(a) stating the proposed increased amount of the security for the authority; and

(b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed increased amount.

(4) The stated period must end at least 20 business days after the holder is given the notice.

(5) Any submissions lodged by the holder within the stated period must be considered before deciding to make the requirement.

(6) In this section—

security given, includes security given or increased because of a requirement under subsection (1).

Not authorised—indicative only

Not authorised—indicative only

490 Interest on security

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

491 Power to use security

The State may use security given under this part for a petroleum authority, and any interest that accrues on the security, to make a payment mentioned in section 487(2) in relation to the authority.

492 Replenishment of security

(1) This section applies, if—

(a) under section 491, all or part of the security for a petroleum authority has been used; and

(b) the authority is still in force.

(2) The Minister must give the authority holder a notice—

(a) stating how much of the security has been used; and

(b) directing the holder to, within 30 days after the giving of the notice, replenish the security for the authority up to the higher of the following—

(i) the amount prescribed under a regulation;

(ii) if the notice states that, under section 488, another amount is required—the other amount.

493 Security not affected by change in authority holder

(1) This section applies if security for a petroleum authority is given under this part for an authority that is still in force and there is a subsequent change in the authority holder.

(2) Despite the subsequent change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 491.

(3) If the security is in the form of money, until the security is replaced or refunded it continues for the holder from time to time of the authority.

494 Retention of security after petroleum authority ends

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

(2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept until the claim has been assessed.

Part 6 Ownership of pipelines, equipment and improvements

Division 1 Pipelines

538 Application of div 1

This division applies for a pipeline constructed or operated under a petroleum tenure or pipeline licence.

Note—

See sections 33 (Incidental activities) and 110 (Construction and operation of petroleum pipelines).

539 General provision about ownership while tenure or licence is in force for pipeline

(1) This section applies while the land on which the pipeline is constructed is, and continues to be, land in the area of the petroleum tenure or licence.

(2) The pipeline is taken to be the personal property of the holder of the petroleum tenure or pipeline licence.

(3) The pipeline remains the holder's personal property despite—

Not authorised—indicative only

Not authorised—indicative only

(a) it having become part of the land; or

(b) the sale or other disposal of the land.

(4) The pipeline can not be—

(a) levied or seized in execution; or

(b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.

(5) Subsections (2) to (4) apply despite—

(a) an Act or law of a State; or

(b) a contract, covenant or claim of right under a law of a State.

540 Ownership afterwards

(1) Section 539 applies and continues to apply for the pipeline, and for any subsequent pipeline licence for the pipeline, if the petroleum tenure or pipeline licence ends or the land on which the pipeline is constructed ceases to be in the area of the petroleum tenure or licence.

(2) However, the section is subject to—

(a) section 580; and

(b) any condition of the former petroleum tenure or any takeover or other condition of the former licence.

(3) Also, if the pipeline is decommissioned under section 559 the petroleum tenure or licence holder, or former petroleum tenure or licence holder, may dispose of it to anyone else.

Division 2 Equipment and improvements

541 Application of div 2

(1) This division applies if—

(a) equipment or improvements are taken, constructed or placed on land in the area of a petroleum authority; and

(b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the authority; and

(c) the authority continues in force.

(2) However, this division—

(a) does not apply for a pipeline; and

Note—

For pipelines, see sections 539 (General provision about ownership while tenure or licence is in force for pipeline) and 559 (Obligation to decommission pipelines).

(b) is subject to part 12.

(3) In this section—

equipment includes machinery and plant.

improvements—

(a) does not include a petroleum well, water injection bore, water observation bore or water supply bore; but

(b) does include any works constructed in connection with the well or bore.

542 Ownership of equipment and improvements

(1) While the equipment or improvements are on the land, they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.

Note—

See however section 560 (Obligation to remove equipment and improvements).

(2) However, for a petroleum well, water injection bore, water observation bore or water supply bore, subsection (1) is subject to chapter 2, part 10, divisions 3 and 4.

Not authorised—indicative only

Not authorised—indicative only

(3) Subsection (1) applies despite—

(a) the plant or equipment having become part of the land; or

(b) the sale or other disposal of the land.

(4) The equipment or improvements can not be—

(a) levied or seized in execution; or

(b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder, or the owner of the land.

(5) This section applies despite—

(a) an Act or law of a State; or

(b) a contract, covenant or claim of right under a law of a State.

Part 7 Reporting

Division 1 Reporting provisions for petroleum tenures

Subdivision 1 General provisions

Note—

See also section 367 (Requirement for giving of copy of relinquishment report).

543 Requirement of petroleum tenure holder to report outcome of testing

(1) This section applies if—

(a) an authority to prospect holder carries out testing under section 71A(1) or 71B(1); or

(b) a petroleum lease holder carries out testing under section 150A(1) or 150C(1).

(2) The holder must, within 40 business days after the testing ends, lodge a report stating the outcome of the test.

543A Notice about water injection bore, water observation bore or water supply bore to Water Act regulator

(1) This section applies if a person—

(a) drills a water injection bore, water observation bore or water supply bore; or

(b) converts a petroleum well to a water injection bore, water observation bore or water supply bore.

(2) The person must, within 60 business days after the day the drilling or conversion starts, give a notice to the Water Act regulator stating the information prescribed under a regulation about the bore.

545 Relinquishment report by tenure holder

If part of the area of a petroleum tenure is relinquished as required or authorised under this Act, its holder must, within 6 months, lodge a report—

(a) describing—

(i) the authorised activities for the tenure carried out in the part; and

(ii) the results of the activities; and

(b) including other information prescribed under a regulation.

Note—

See chapter 2, part 1, division 4, subdivision 2 (Standard relinquishment condition and related provisions), sections 62(4)

Not authorised—indicative only

Not authorised—indicative only

(Deciding application), 148 (Power to require relinquishment), 329 (Power to impose relinquishment condition) and 790 (Types of noncompliance action that may be taken).

Maximum penalty—200 penalty units.

546 End of tenure report

If a petroleum tenure or water monitoring authority ends, the person who held the tenure or authority immediately before it ended must, within 6 months, lodge a report—

(a) including each of the following—

(i) a summary of all authorised activities for the tenure or authority that have been carried out since it took effect;

(ii) a summary of the results of the activities;

(iii) an index of all reports lodged, as required under this Act, in relation to the activities;

(iv) a summary of all significant hazards created to future safe and efficient mining that, under section 706 or a regulation, are required to be reported;

(v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;

(vi) information about the amount and location of all petroleum and water produced from the area of the tenure or authority;

(vii) any information related to information mentioned in subparagraph (vi) that may help the understanding of the amount and location of any remaining petroleum (including areas of 'free gas') and water from reservoirs produced;

(viii) any information required to be reported under this Act that has not been previously reported; and

(b) stating any other information prescribed under a regulation.

Maximum penalty—150 penalty units.

546A End of authority report for data acquisition authority or survey licence

(1) This section applies if a data acquisition authority or survey licence ends.

(2) The person who held the authority or licence immediately before it ended must, within 6 months, lodge a report about the matters relating to the former authority or licence as prescribed under a regulation.

Maximum penalty—150 penalty units.

Subdivision 2 Records and samples

547 Requirement to keep records and samples

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

Maximum penalty—500 penalty units.

(2) For subsection (1), the prescribed records may be—

(a) exploration data; or

Examples of exploration data—

- seismic acquisition and processing reports
- information obtained from airborne geophysical surveying
- other information about petroleum or other materials at or below ground level
- a well completion report for an exploration or appraisal well

Not authorised—indicative only

Not authorised—indicative only

(b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.

548 Requirement to lodge records and samples

(1) A person who, under section 547, is required to keep a record or sample, must, for the services of the State, lodge a copy of the record and a part of the sample within 6 months after the earlier of the following (the ***required time***)—

(a) the day the record or sample was acquired or made;

(b) the day the relevant petroleum tenure ends.

Maximum penalty—500 penalty units.

(2) The copy of the record must—

(a) be—

(i) given electronically using the system for submission of reports made or approved by the chief executive; and

(ii) in the digital format made or approved by the chief executive; or

(b) if a way of giving the copy is prescribed under a regulation—be given in that way.

(3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department's website.

(4) The part of the sample must be lodged at the following office (the ***relevant office***)—

(a) the office of the department for lodging the part of the sample, as stated in a gazette notice by the chief executive;

(b) if no office is gazetted under paragraph (a)—the office of the chief executive.

(5) If the chief executive gives the person a notice asking the person for more of the sample, the person must lodge it at the relevant office within the reasonable time stated in the notice (also the ***required time***) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

(6) The chief executive may extend the required time by up to 1 year if—

(a) the person asks for the extension before the required time; and

(b) the chief executive is satisfied the extension is necessary.

(7) However, the extension must not end later than—

(a) for subsection (1)—6 months after the required time; or

(b) for subsection (5)—1 year after the required time.

(8) Without limiting subsection (1), the use to which the State may put the copy of the record and the part of the sample include the building of a publicly available database to facilitate petroleum exploration for the services of the State.

Subdivision 3 Releasing required information

549 Meaning of *required information*

Required information, for a petroleum tenure, is information (in any form) about authorised activities carried out under the tenure that the tenure holder has lodged under this Act, including, for example—

(a) a sample; and

(b) data and other matters mentioned in section 553(2).

Not authorised—indicative only

Not authorised—indicative only

550 Public release of required information

(1) The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—

(a) publish, in the way prescribed under a regulation, required information for the tenure for public use, including, for example, to support petroleum exploration, production and development;

(b) on payment of a fee prescribed under a regulation, make it available to any person.

(2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out solely in an area that is no longer in the area of the petroleum tenure.

Example—

The required information is a well completion report about a well drilled on particular land in the area of an authority to prospect. Subsection (1) ceases to apply if all of that land is relinquished under the relinquishment condition.

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

551 Chief executive may use required information

(1) The mere fact of the existence of a petroleum tenure is taken to be an authorisation from its holder to the chief executive to use required information for—

(a) purposes reasonably related to this Act that are required for the tenure; or

(b) the services of the State.

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

Division 2 Other reporting provisions

552 Obligation to lodge annual reports for pipeline or petroleum facility licence

(1) This section applies for a pipeline licence or petroleum facility licence.

(2) The holder of the licence must, within 2 months after each of its anniversary days, lodge a report for the 12 months that ended on the last anniversary day that includes the information about the licence as prescribed under a regulation.

Maximum penalty—150 penalty units.

(3) If the licence ends, the person who was its holder immediately before it ended must, within 2 months, lodge a report that includes the information prescribed under subsection (2) for the period from its last anniversary day to when it ended.

Maximum penalty—150 penalty units.

(4) In this section—

anniversary day, for a licence, means each day that is the anniversary of the day the licence took effect.

553 Power to require information or reports about authorised activities to be kept or given

(1) A regulation, or the chief executive, may, for the services of the State, require a petroleum authority holder to—

(a) keep stated information, or types of information, about authorised activities carried out under the petroleum authority; or

Example of a prescribed way of keeping information—

in a stated digital format

(b) lodge a notice giving stated information, or types of information, or stated reports at stated times or intervals

Not authorised—indicative only

Not authorised—indicative only

about authorised activities carried out under the petroleum authority.

Example of a stated time—

for a report about a petroleum well, 6 months after its completion

(2) For subsection (1), the information or report required to be given or kept may be—

(a) exploration data; or

Examples of exploration data—

- seismic acquisition, processing and interpretation reports
- information obtained from airborne geophysical surveying
- other information about petroleum or other materials at or below ground level
- a well completion report for an exploration or appraisal well

(b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.

(3) A notice under subsection (1)(b) may state—

(a) a format required for giving the information; and

(b) a degree of precision required for the giving of the information.

(4) A copy of a notice under subsection (1)(b) must be given to both the owners and occupiers of affected land in the way and at the times prescribed under a regulation.

(5) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

(6) In this section—

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

information includes documents, records and samples.

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).

553A Giving copy of required notice by publication

(1) This section applies if, under section 553(4), a regulation requires a petroleum authority holder to give owners and occupiers of affected land a copy of a notice about authorised activities carried out under the petroleum authority.

(2) The chief executive may approve the petroleum authority holder giving the notice by publishing it in a stated way.

(3) The publication may relate to more than 1 notice.

(4) The chief executive may give the approval only if satisfied—

(a) if the notice is required to be given before an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land at least 10 business days before the authorised activity is carried out; or

(b) if the notice is required to be given after an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land.

(5) If the chief executive approves the giving of the notice under subsection (2)—

(a) the notice may state where a copy of further information referred to in the publication may be obtained, or inspected, free of charge; and

(b) the holder is not required to comply with section 553(4).

(6) In this section—

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

Not authorised—indicative only

Not authorised—indicative only

553B Copy of particular notices for chief executive (environment)

(1) This section applies if—

(a) a regulation requires a petroleum authority holder to lodge a notice under section 553(1)(b); and

(b) the petroleum authority holder lodges the notice as required.

(2) The chief executive must give the chief executive (environment) a copy of the notice.

(3) In this section—

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

Part 8 General provisions for conditions and authorised activities

Division 1 Other mandatory conditions for all petroleum authorities

554 Operation of div 1

This division provides for general mandatory conditions for all petroleum authorities.

Notes—

1 The following provisions also impose mandatory conditions on all petroleum authorities—

- chapter 2, part 1, divisions 1 and 4
- chapter 2, part 2, divisions 1 and 5
- chapter 2, part 10
- chapter 3, part 4, division 4

- chapter 5.

2 For what is a mandatory condition, see section 20(2).

555 Compliance with land access code

A petroleum authority holder must—

(a) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and

(b) ensure any other person carrying out an authorised activity for the petroleum authority complies with the mandatory provisions of the land access code.

557 Obligation to comply with Act and prescribed standards

(1) The holder of a petroleum authority must—

(a) comply with this Act; and

(b) in carrying out an authorised activity for the authority, comply with—

(i) any standard that the authority provides for the activity; and

(ii) to the extent that the authority does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.

(2) In this section—

standard includes an Australian Standard, an international standard or a code or protocol.

Note—

For prescribed standards for GHG stream pipelines in the area of a GHG tenure, see the GHG storage Act, section 331.

Not authorised—indicative only

Not authorised—indicative only

558 Obligation to survey if Minister requires

(1) The Minister may, by notice to the holder of a petroleum authority, require the holder to survey or resurvey the area of the authority within a stated reasonable period.

(2) The holder must cause the survey or resurvey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.

(3) The holder must pay any costs incurred in complying with the notice.

Division 2 Provisions for when authority ends or area reduced

559 Obligation to decommission pipelines

(1) The holder of a petroleum authority must, before the decommissioning day, decommission, in the way prescribed under a regulation, any pipeline in the area of the authority.

Maximum penalty—2,000 penalty units.

Notes—

1 See also section 539(3) and (4) (General provision about ownership while tenure or licence is in force for pipeline).

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) However, subsection (1)—

(a) does not apply if the pipeline was constructed or operated under another petroleum authority; and

(b) ceases to apply if the operation of the pipeline becomes an authorised activity for another petroleum authority.

(3) Also, subsection (1) does not apply for a pipeline if—

(a) the petroleum authority is a pipeline licence; and

(b) the licence is surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.

(4) In this section—

decommissioning day means the later of the following days—

(a) the earlier of the following—

(i) the day the authority ends;

(ii) the day the land ceases to be in the area of the authority;

(b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;

(c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

560 Obligation to remove equipment and improvements

(1) This section applies for equipment or improvements in the area of a petroleum authority or on access land for the authority that are being, or have been, used for an authorised activity for the authority.

(2) However, this section does not apply for—

(a) a petroleum well, pipeline, water injection bore, water observation bore or water supply bore; or

Notes—

1 For petroleum wells, water injection bores, water observation bores and water supply bores, see chapter 2, part 10.

2 For pipelines, see sections 539 and 559.

(b) equipment or improvements on land that, under section 101, ceases to be in the area of an authority to prospect.

(3) The authority holder must, before the removal day, remove the equipment or improvements from the land, unless the owner of the land otherwise agrees.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(4) To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.

Note—

For ownership of the equipment or improvements, see section 542.

(5) In this section—

equipment includes machinery and plant.

removal day means the later of the following days—

(a) the earlier of the following—

(i) the day the authority ends;

(ii) the day the land ceases to be in the area of the authority;

(b) if, before the day provided for under paragraph (a), the Minister fixes a day—that day;

(c) if, before a day fixed under paragraph (b), the Minister fixes a later day—that day.

561 Authorisation to enter to facilitate compliance with s 555 or this division

(1) The Minister may, by notice, authorise a former holder of a petroleum authority to enter any of the following land to comply with, or remedy a contravention of, section 555 or this division—

(a) the land to which section 555 or this division applies (***primary land***);

(b) any other land (***secondary land***) necessary or desirable to cross for access to the primary land.

(2) Sections 20 and 557 and the Common Provisions Act, chapter 3, parts 2, 3 and 7 apply to the former holder for the purpose of the authorisation as if—

(a) the authority were still in force (the ***notional authority***); and

(b) the former holder is the holder of the notional authority; and

(c) the primary land and any secondary land are in the area of the notional authority; and

(d) the compliance or the remedying of the contravention were authorised activities for the notional authority.

(3) However, the power under this section does not include the power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.

(4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show, or make a reasonable attempt to show, the occupier the former holder's authorisation under this section.

Division 3 Provisions for authorised activities

562 General restriction on carrying out authorised activities

The carrying out of an authorised activity for a petroleum authority is subject to—

(a) the provisions of the authority; and

(b) compliance with the authority holder's rights and obligations under this chapter and chapters 2, 3, 4 and 9.

Not authorised—indicative only

Not authorised—indicative only

563 Who may carry out authorised activity for petroleum authority holder

(1) An authorised activity for a petroleum authority may be carried out for the holder by any of the following persons acting within the scope of the person's authority from the holder—

(a) if the holder is a corporation—its officers and employees;

(b) the holder's employees or partners who are individuals;

(c) agents of, or contractors for, the holder;

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

Example—

A petroleum lease holder may also enter into a coordination arrangement under which another party to the arrangement may carry out an authorised activity for the lease. See section 234(1).

(2) The authority may be express, or implied from—

(a) the nature of the relationship between the person and the holder; or

(b) the duties the person performs for the holder; or

(c) the duties a person mentioned in subsection (1) customarily performs.

563A Limitation of owner's or occupier's tortious liability for authorised activities

(1) This section applies to an owner or occupier of land in the area of a petroleum authority if—

(a) someone else carries out an authorised activity for a petroleum authority on the land; or

(b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a petroleum authority.

(2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.

(3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.

(4) This section applies—

(a) despite any other Act or law; and

(b) even though this Act or the petroleum authority prevents or restricts the carrying out of the activity as an authorised activity for the authority.

(5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

Part 11 Surrenders

574A Authority to prospect can not be surrendered

An authority to prospect can not be surrendered.

575 Requirements for surrendering another type of petroleum authority

(1) The holder of a petroleum authority, other than an authority to prospect, may surrender all or part of the area of the authority only if, under this part—

(a) an application has been made for approval of the surrender; and

(b) the surrender has been approved.

(2) In this section—

Not authorised—indicative only

Not authorised—indicative only

surrender, for a petroleum authority, does not include a relinquishment of an area if the relinquishment is required or authorised under—

(a) section 148; or

(b) a relinquishment condition for the authority; or

(c) a relinquishment requirement under section 791.

576 Requirements for making surrender application

(1) A surrender application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

(2) A surrender application must also be accompanied by a report by the applicant, containing the information prescribed under a regulation about—

(a) authorised activities for the authority carried out on the area the subject of the application; and

(b) the results of the activities.

Maximum penalty for subsection (2)—150 penalty units.

577 Notice to surrender a pipeline licence

(1) A surrender application can not be made for a petroleum authority that is a pipeline licence unless the holder has, at least 3 months before the application is lodged, lodged a notice to surrender the licence.

(2) The notice to surrender must state the reasons for the proposed surrender.

(3) The chief executive may, after the lodging of the notice to surrender, give the holder notice requiring the holder to give the chief executive further relevant written information by a reasonable stated day.

(4) The holder must comply with the chief executive's notice unless the holder has a reasonable excuse.

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

578 Deciding application

(1) The Minister may approve a surrender only if—

(a) up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and

(b) the Minister considers the surrender is not against the public interest; and

(c) for a surrender of all of the area of the petroleum authority—all of the relevant environmental authority has been cancelled or surrendered; and

(d) for a surrender of part the area of the petroleum authority—the relevant environmental authority has been amended or partially surrendered in a way that reflects the partial surrender of the petroleum authority.

(2) The matters that must be considered in deciding whether to approve a surrender include the extent to which the applicant has complied with the conditions of the authority.

(3) If the application is for part of the area of a petroleum authority, the surrender may be approved subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the area of the authority in a stated way that the Minister considers appropriate.

579 Notice and taking effect of decision

(1) On approval of a surrender, the applicant must be given notice of the decision.

(2) A surrender takes effect on the day after the decision is made.

(3) The applicant must be given an information notice about—

Not authorised—indicative only

Not authorised—indicative only

(a) a decision to refuse to approve a surrender; or

(b) a decision to approve a surrender subject to the applicant's written agreement to the Minister amending the petroleum authority in a stated way.

(4) However, subsection (3) does not apply for an amendment mentioned in subsection (3)(b) if the applicant has agreed in writing to the amendment.

Part 12 Enforcement of end of authority and area reduction obligations

580 Power of authorised person to ensure compliance

(1) This section applies if the holder, or former holder, of a petroleum authority has not complied with section 292, 559 or 560 in relation to land (the ***primary land***).

(2) A person authorised (the ***authorised person***) by the chief executive may, by complying with section 581, exercise the following powers (***remedial powers***)—

(a) enter the primary land and do all things necessary to ensure the requirement is complied with;

(b) enter any other land (***secondary land***) necessary or desirable to cross for access to the primary land.

(3) However, remedial powers do not include power to enter a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part of the structure.

(4) The authorisation—

(a) must be written; and

(b) may be given on conditions the Minister considers appropriate.

581 Requirements for entry to ensure compliance

(1) Remedial powers may be exercised in relation to the primary or secondary land under section 580 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—

(a) if the land has an occupier—any occupier of the land;

(b) if the land does not have an occupier—its owner.

(2) The notice must—

(a) identify the authorised person; and

(b) describe the land; and

(c) state—

(i) that the authorised person has, under this section, been authorised to enter the land; and

(ii) the purpose of the entry; and

(iii) the period of the entry.

(3) The chief executive may approve the giving of the notice by publishing it in a stated way.

(4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.

(5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show, or make a reasonable attempt to show, the occupier the person's authorisation under this section.

582 Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

Not authorised—indicative only

Not authorised—indicative only

583 Notice of damage because of exercise of remedial powers

(1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.

(2) If for any reason it is not practicable to comply with subsection (1), the person must—

(a) leave the notice at the place where the damage happened; and

(b) ensure it is left in a conspicuous place and in a reasonably secure way.

(3) The notice must state—

(a) particulars of the damage; and

(b) that the owner or occupier may claim compensation under section 584 from the State.

584 Compensation for exercise of remedial powers

(1) This section applies if an owner or occupier of land (the ***claimant***) suffers a cost, damage or loss because of the exercise, or purported exercise, of remedial powers.

(2) Compensation is payable to the claimant by the State for the cost, damage or loss.

(3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.

(4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

585 Ownership of thing removed in exercise of remedial powers

(1) This section applies if—

(a) remedial powers are exercised in relation to land; and

(b) in the exercise of the powers a thing is removed from the land; and

(c) immediately before the removal, the thing was the property of—

(i) the holder, or former holder, of a petroleum authority in relation to whom the powers were exercised; or

(ii) an agent of, or contractor for, the holder.

(2) On the removal, the thing becomes the property of the State.

(3) The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.

(4) The chief executive may deal with the thing for the State.

(5) If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.

586 Recovery of costs of and compensation for exercise of remedial power

(1) The State may recover from the responsible person as a debt any—

(a) reasonable costs the State, or an authorised person under section 580, incurs in exercising a remedial power; and

(b) compensation payable by the State under section 584 in relation to the exercise of the remedial power.

Note—

See also section 841.

(2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 585 must be deducted from the amount claimed for the costs.

(3) In this section—

Not authorised—indicative only

Not authorised—indicative only

relevant net proceeds of sale means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 585.

responsible person means the holder, or former holder, of the petroleum authority in relation to which the remedial powers were exercised.

Part 13 Miscellaneous provisions

587 Minister's power to ensure compliance by petroleum authority holder

(1) This section applies if—

(a) the holder of a petroleum authority has not complied with a requirement, under this Act, of the holder; and

(b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.

(2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—

(a) subsections (3) and (4) have been complied with; or

(b) the holder has agreed to the Minister taking the action.

(3) The Minister must give the holder notice—

(a) stating the requirement and the action the Minister proposes to take; and

(b) inviting the holder to lodge, within a stated reasonable period, submissions about the proposed action.

(4) Any submissions lodged by the holder within the stated period must be considered before deciding to take the action.

(5) A decision to take the action does not take effect until the holder is given an information notice about the decision.

(6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).

Note—

See also section 841.

588 Interest on amounts owing to the State other than for petroleum royalty

(1) This section does not apply in relation to petroleum royalty.

Note—

For interest on unpaid petroleum royalty, see the *Taxation Administration Act 2001*, section 54.

(2) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.

Examples of an amount that may be owing under this Act—

annual or other rent, a civil penalty for nonpayment of annual rent or an annual licence fee

(3) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.

(4) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.

(5) Subsection (4) applies despite any order or direction of the payer.

(6) In this section—

relevant day means the following—

(a) for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;

Not authorised—indicative only

Not authorised—indicative only

(b) for another amount—the day the amount becomes owing.

589 Recovery of unpaid amounts

(1) The *Taxation Administration Act 2001*, section 45 provides for the payment and recovery of petroleum royalty and related amounts.

(2) If a provision of this Act requires a petroleum authority holder to pay the State another amount (including interest) the State may recover the amount from the holder as a debt.

(3) In this section—

holder includes a former holder of the authority in relation to which the remedial powers were exercised.

Chapter 6 Petroleum royalty

589A Relationship of chapter with Taxation Administration Act 2001

(1) This chapter does not contain all the provisions about petroleum royalty payable under this Act.

(2) The *Taxation Administration Act 2001* contains provisions dealing with, among other things, the following—

(a) assessments of petroleum royalty;

(b) payments and refunds of petroleum royalty;

(c) imposition of interest and penalties;

(d) objections to particular decisions relating to petroleum royalty, and appeals against, or reviews of, decisions on the objections;

(e) record keeping obligations;

(f) investigative powers, offences, legal proceedings and evidentiary matters;

(g) service of documents.

Note—

Under the *Taxation Administration Act 2001*, section 3, that Act and the provisions of this Act that are a revenue law must be read together as if they together formed a single Act.

590 Imposition of petroleum royalty on petroleum producers

(1) A petroleum producer must pay the State petroleum royalty for petroleum that the producer produces.

(2) The petroleum royalty—

(a) must be paid on or before the time prescribed under a regulation; and

(b) is calculated in the way prescribed by regulation; and

(c) is payable at the rate prescribed by regulation.

(3) A regulation made under subsection (2) may prescribe different calculations and rates for different types of petroleum, different uses of petroleum and different periods.

(4) A regulation may provide for a participant in a joint venture, or other arrangement, involving the production of petroleum to be taken to be a petroleum producer for a royalty provision.

(5) This section is subject to any exemption under section 591 or 591A.

591 General exemptions from petroleum royalty

(1) Petroleum produced on or after 31 December 2004 is exempt from the petroleum royalty if the revenue commissioner is satisfied—

(a) the petroleum was unavoidably lost before it could be measured; or

(b) the petroleum was used—

Not authorised—indicative only

Not authorised—indicative only

(i) if it was produced under a petroleum tenure or 1923 Act petroleum tenure—in the production of petroleum from that tenure; or

(ii) if the petroleum is coal seam gas—by the petroleum producer for mining the coal that produced the gas; or

(c) that, before the petroleum was produced in the State, it was produced outside the State and injected or reinjected into a natural underground reservoir in the State; or

(d) the petroleum is petroleum on which petroleum royalty has already been paid; or

(e) the petroleum is coal seam gas on which royalty under the Mineral Resources Act is payable; or

(f) the petroleum was flared or vented as part of testing for the presence of petroleum during the drilling of a well.

(2) However—

(a) subsection (1) ceases to apply if, under chapter 2, part 6, division 3, the petroleum becomes the property of the State; and

(b) subsection (1)(c) does not apply if, after the petroleum royalty was paid, property in the petroleum is taken to have passed to the State under chapter 2, part 6, division 3.

(3) Despite subsection (1)(b)(ii), if the first underground mining of coal in a mining lease commenced before 31 December 2004, petroleum produced on the mining lease and used beneficially for mining under the mining lease is exempt from petroleum royalty.

(4) However, subsection (5) applies if the petroleum mentioned in subsection (1)(b)(ii) or subsection (3) is used to generate electricity that is—

(a) partly used for mining under the mining lease; and

(b) partly used for another purpose.

(5) Subsection (1)(b)(ii) and subsection (3) apply only to the proportion of the petroleum that is equivalent to the proportion of the electricity generated from the petroleum that is used for mining under the mining lease.

(6) In this section—

petroleum tenure includes a 1923 Act petroleum tenure.

591A Exemption for production testing

(1) This section applies if—

(a) under section 71A or 150A, a petroleum tenure holder carries out production testing in relation to a particular petroleum well (the ***relevant well***); or

(b) under a 1923 Act petroleum tenure, the tenure holder carries out production testing in relation to a particular petroleum well (also the ***relevant well***).

(2) If—

(a) petroleum produced from the relevant well is coal seam gas or natural gas; and

(b) the gas is flared or vented; and

(c) the gas is, within the period provided for under subsection (3) produced as part of the production testing;

petroleum royalty is only payable on the amount of the petroleum flared or vented during the period that is more than 3,000,000m^3.

(3) For subsection (2), the period is the shorter of the following—

(a) the sum of all periods after 31 December 2004 for which, under section 71A or 150A, or for a 1923 Act petroleum tenure, under the tenure, the production testing from the relevant well may be carried out;

(b) 13 months from the later of the following—

Not authorised—indicative only

Not authorised—indicative only

(i) the start of the production testing from the relevant well;

(ii) if the production testing had started before 31 December 2004, 31 December 2004.

592 Revenue commissioner may decide measurement or information required for royalty return

(1) This section applies if a measurement of, or information about, petroleum is required for a royalty return and either—

(a) the measurement of, or information about, the petroleum is not given to the revenue commissioner; or

(b) the revenue commissioner is not satisfied about the accuracy or completeness of the measurement of, or information about, the petroleum given to the revenue commissioner.

(2) The revenue commissioner may decide the measurement of, or information about, the petroleum.

(3) The decided measurement or information is taken to be the required measurement or information.

(4) The revenue commissioner must give the petroleum producer for whom the decided measurement or information applies notice of the decision.

(5) To remove any doubt, it is declared that this section does not relieve a person of an obligation to make a measurement of, or give information about, petroleum required for a royalty return.

592A Requirement to lodge royalty returns

(1) A petroleum producer must lodge written returns about petroleum produced by the petroleum producer as required by regulation.

(2) A return under subsection (1) is a ***royalty return***.

(3) Unless a regulation provides otherwise, a petroleum producer must lodge royalty returns whether or not petroleum has been produced during the royalty return period.

593 Revenue commissioner may require royalty estimate

(1) The revenue commissioner may, by notice given to a petroleum producer who is liable to pay the State petroleum royalty under section 590, require the petroleum producer to give the revenue commissioner a royalty estimate for the petroleum producer for a stated future period.

(2) The royalty estimate must be in a written document containing the information prescribed under a regulation about the estimated royalties payable by the petroleum producer for the future period.

(3) The petroleum producer must give the royalty estimate—

(a) in the way prescribed under a regulation; and

(b) no later than the day stated in the notice for giving the royalty estimate.

594 Regulation may impose civil penalties

(1) This section applies if a regulation provides for a person to make an election about the time and manner, or amount, of payment of petroleum royalty to the State.

(2) To deter exploitation of the provision, the regulation may impose a civil penalty—

(a) for contravention of a prescribed requirement; or

(b) in other prescribed circumstances.

(3) The amount of the civil penalty must be a prescribed amount or a prescribed percentage of petroleum royalty payable.

(4) The regulation may include provision for the revenue commissioner to remit the whole or part of the civil penalty.

Not authorised—indicative only

Not authorised—indicative only

(5) For the *Taxation Administration Act 2001*, section 59, a civil penalty is declared to be a penalty tax.

Chapter 7 Fuel gas quality and characteristics for consumers

Part 1 Preliminary

618 Application of ch 7

This chapter applies to the supply of fuel gas only if the gas supplied is for use by consumers of fuel gas.

619 Who is a *consumer* of fuel gas

(1) A ***consumer*** of fuel gas is a person who—

(a) consumes, or proposes to consume, fuel gas by way of heating, lighting, power or in an industrial process; or

(b) uses, or proposes to use, fuel gas for refrigeration or another process.

(2) Subsection (1)(b) applies even if the use does not result in the gas being consumed.

Part 2 Quality

Division 1 Quality restrictions

620 Prescribed quality

(1) A regulation may prescribe a quality for fuel gas to be supplied to consumers (the ***prescribed quality***).

(2) The prescribed quality may be for the purity, composition or physical parameters of the gas.

Examples of physical parameters—

specific gravity and heating value

621 Restrictions on supplying gas not of prescribed quality

(1) This section applies if a person (the ***supplier***) proposes to supply fuel gas to someone else (the ***recipient***) if—

(a) the gas is not of the prescribed quality; and

(b) a gas quality approval for the gas is not in force.

(2) The supplier must not supply the fuel gas to the recipient, unless—

(a) the recipient has agreed in writing to the supply; and

(b) the agreement—

(i) states that the gas is not of the prescribed quality; and

(ii) describes the quality of the gas; and

(c) the chief inspector has received the agreement, or a copy of it.

Maximum penalty—500 penalty units.

Notes—

1 See however section 437.

Not authorised—indicative only

Not authorised—indicative only

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) An agreement that complies with subsection (2)(a) to (c) is a ***gas quality agreement***.

Division 2 Gas quality approvals

622 Chief inspector's power to approve quality

(1) The chief inspector may, on the chief inspector's own initiative or on application, approve the quality of fuel gas (a ***gas quality approval***).

(2) The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

(3) A gas quality approval may be given for all or any of the following—

(a) supply by a stated person;

(b) a stated period;

(c) supply to a stated consumer, or group of consumers, from a common source.

623 Criteria for approval

The chief inspector may issue a gas quality approval only if satisfied—

(a) the quality of the gas is acceptable for supply to the relevant consumers; and

(b) either—

(i) the approval is necessary to ensure sufficiency of gas supply to the relevant consumers; or

(ii) that stopping the supply to allow gas of the prescribed quality to be supplied is impractical or may cause a dangerous situation; or

(iii) it is impractical to seek the written approval of the relevant consumers to be supplied with gas of that quality.

624 Steps after making decision about approval

(1) If the chief inspector issues a gas quality approval for supply by a person, the chief inspector must give the person notice of the approval.

(2) The gas quality approval takes effect when the notice is given.

(3) On refusal to issue a gas quality approval, the holder must be given an information notice about the decision to refuse.

625 Power to cancel approval

(1) The chief inspector may decide to immediately cancel a gas quality approval if the chief inspector reasonably believes there may be an unacceptable risk to safety if the approval were to continue in force.

(2) A cancellation under subsection (1) takes effect when the gas quality approval holder is given an information notice about the decision to cancel.

(3) The chief inspector may, by complying with subsections (4) and (5), decide to cancel a gas quality approval for any other reason.

(4) If the chief inspector proposes to cancel a gas quality approval under subsection (3), the chief inspector must give its holder a notice stating—

(a) that the chief inspector proposes to cancel the approval; and

(b) the reasons for the proposed cancellation; and

Not authorised—indicative only

Not authorised—indicative only

(c) that the holder may lodge, within a stated reasonable period, written submissions about the proposed cancellation.

(5) The chief inspector must, before making a decision under subsection (3), consider any written submissions lodged by the holder within the stated period.

(6) A decision to cancel under subsection (3) takes effect when the holder is given an information notice about the decision or, if the notice states a later day of effect, on that later day.

Part 3 Characteristics

626 Fuel gas supplied through pipeline

(1) A person who supplies fuel gas must ensure the gas is reasonably free of—

(a) any liquids; or

(b) substances that are toxic to persons or corrosive to pipelines, gas systems or gas containers.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) For subsection (1), fuel gas is taken to be reasonably free of liquids or substances mentioned in subsection (1)(b) if they are no more than any level declared under a safety requirement.

Note—

See section 669 (Making safety requirement).

(3) In making the declaration, regard must be had to current industry practice.

(4) Subsection (1) applies even if the gas is of the prescribed quality or of a quality approved under a gas quality approval or provided for under a gas quality agreement.

627 Prescribed odour

A regulation may prescribe a distinctive odour for fuel gas (the ***prescribed odour***) to be supplied for consumer use.

628 Odour requirement

(1) A person must not supply fuel gas to a consumer unless—

(a) the gas has the prescribed odour; or

(b) the supply is to an industrial installation with appropriate gas detectors and shut-down systems and a risk analysis has been carried out by an appropriately qualified person showing the supply is safe.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) The fact that a person is supplying a consumer with fuel gas under subsection (1)(b) does not limit an inspector's power to give the person a dangerous situation direction that requires the gas to have the prescribed odour.

(3) In this section—

appropriately qualified person means a person who—

(a) is independent of the person supplying the fuel gas; and

(b) the chief inspector considers—

(i) is appropriately qualified; and

(ii) has access to information to carry out the risk analysis.

Not authorised—indicative only

Not authorised—indicative only

Chapter 8 Petroleum and fuel gas measurement

Part 1 Introduction

Division 1 Application of chapter 8

629 Application of ch 8

This chapter applies for meters used to—

(a) measure, at custody transfer points, petroleum or fuel gas for supply or transport by pipeline; or

(b) work out the petroleum royalty; or

(c) comply with section 801.

Notes—

1 Under the Mineral Resources Act, section 318CU, this part and part 2 also apply for the measurement and recording of incidental coal seam gas mined in the area of a coal or oil shale mining lease.

2 The *National Measurement Act 1960* (Cwlth) also imposes requirements that apply for measurements schemes under this chapter.

Division 2 Interpretation

631 What is a *meter*

(1) A ***meter*** is a device used to work out, by direct measurement, the energy, mass or volume of petroleum or fuel gas transferred from one place to another.

(2) A ***meter*** includes—

(a) a measuring device and its ancillary equipment; and

Examples of a measuring device—

a positive displacement meter, turbine meter and orifice metering

Example of ancillary equipment—

a flow computer

(b) a measurement method.

Examples of measurement methods—

1 calibrated weighbridge differences

2 tank dip readings

3 for disposal of incidental coal seam gas in ventilation air from an underground coal mine, estimation of flow rates and sampling of methane content measurements

(3) A reference to a ***meter*** includes a part of the meter.

632 Who is the *controller* of a meter

(1) The ***controller***, of a meter, is the person who owns the meter.

(2) However, if the owner has arranged with someone else for the other person to operate and maintain the meter for measurement purposes, the other person is the ***controller*** of the meter while the arrangement is in force.

633 What is the *measurement scheme* for a meter

The ***measurement scheme***, for a meter, is the measurement scheme for the meter made under section 637, as revised from time to time under section 639.

634 *Measurement* includes estimation

A reference to the ***measurement***, of petroleum or fuel gas, includes an estimation of the energy, mass or volume of the petroleum or fuel gas.

Not authorised—indicative only

Not authorised—indicative only

635 What is the *tolerance for error* for a meter

The ***tolerance for error***, for a meter, is its tolerance for error in accuracy—

(a) as prescribed under a regulation; or

(b) if the tolerance is not prescribed under a regulation, as provided for under—

(i) the measurement scheme for the meter; or

(ii) an Australian standard or similar standard that the measurement scheme for the meter requires the meter to comply with.

Part 2 Measurement schemes

Division 1 Making and revision of measurement scheme

636 Obligations of controller of meter

The controller of a meter must—

(a) make a measurement scheme for the meter that complies with section 637; and

(b) implement and maintain the scheme.

Note—

See also section 801 (Petroleum producer's measurement obligations).

Maximum penalty—300 penalty units.

637 Content requirements for measurement schemes

(1) A measurement scheme for a meter must—

(a) identify each meter, or meter family or type, to which the scheme applies; and

(b) if the scheme applies to a meter family or type—state approximately how many meters to which the scheme applies are in each family or type; and

(c) state an Australian standard or other standard acceptable to the chief executive to which each meter to which the scheme applies must comply; and

(d) if the standard does not provide for, or a regulation does not prescribe, when any of the meters must be replaced or tested—state a proposed time or interval for replacement or testing; and

(e) if the standard does not state, or a regulation does not prescribe, a tolerance for error for any of the meters—state what is the tolerance for error for the meters or meters of their family or type; and

(f) provide for regular reviews of the scheme; and

(g) state key performance indicators to be used to monitor compliance with the scheme and this chapter; and

(h) include any competency requirement made under section 638; and

(i) comply with any relevant requirements under the *National Measurement Act 1960* (Cwlth); and

(j) state the means of compliance with other relevant matters prescribed under a regulation; and

(k) state other matters prescribed under a regulation.

(2) The scheme must also address the following to the extent they are appropriate for the meters to which the scheme applies—

(a) installation and commissioning of meters;

(b) meter testing methods and frequency;

(c) maintenance processes;

(d) correction factor calculation;

(e) calibration and traceability of meter test equipment;

Not authorised—indicative only

Not authorised—indicative only

(f) meter security, including, for example, protection from damage during transport, installation and use and preventing unauthorised alteration of meter readings;

(g) processes for estimated meter readings, reasons for estimations and procedures for reconciling actual and estimated readings;

(h) procedures on meter failure, incorrect operation or meter bypass;

(i) levels of competency for persons employed or engaged to carry out measurement activities under the scheme or other activities relating to the meters;

Examples of other activities—

removing and replacing the meters

(j) training programs to maintain the skill levels of persons mentioned in paragraph (i);

(k) records to be kept, including, for example, records of anomalies, complaints and action taken to rectify or account for them, and the minimum period they will be kept.

(3) In this section—

meter family means a group of meters if—

(a) all the meters have been made to the same specifications by the same manufacturer; and

(b) there are no significant differences in components or materials between meters.

638 Power to fix competency required under measurement scheme

(1) This section applies if the chief executive believes an activity under a measurement scheme for a meter should be performed only by a person with a particular competency.

(2) The chief executive may, by notice to the controller of the relevant meter, require the task be performed only by a person with the competency.

(3) On the giving of the notice, the controller must ensure—

(a) the task is performed only by a person with the competency; and

(b) the scheme is amended to incorporate the requirement.

639 When measurement scheme must be revised

(1) The controller of a meter must appropriately revise the measurement scheme for the meter in any of the following circumstances—

(a) the controller has installed, or proposes to install, a meter to which the scheme does not apply or that does not comply with the scheme;

(b) the making or amendment of an Australian standard or other standard that makes it appropriate to revise the scheme;

(c) the happening of an event relevant to the meter of which the controller is aware, or ought reasonably to have been aware;

Examples of an event—

a development in technical knowledge or hazard assessment

(d) proposed modifications to the meter or activities under the scheme that make it appropriate to revise the scheme;

(e) it is proposed to change competencies required for persons carrying out activities under the scheme;

(f) the controller becomes aware of a significant anomaly in the scheme;

(g) there is a likelihood of inaccurate measurements under the scheme.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) In this section—

revise means amend or remake.

Division 2 Compliance with measurement scheme

640 Meter installation or use must comply with scheme

A person must not install or use a meter unless—

(a) a measurement scheme that applies to the meter has been made; and

(b) the scheme complies with section 637; and

(c) the installation or use complies with the scheme.

Maximum penalty—200 penalty units.

Notes—

1 See also section 658 (Authorisation required to install or use prepayment meters).

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

641 Measurement must comply with scheme

A person must not measure petroleum or fuel gas through a meter unless—

(a) the measurement is done in a way that complies with the measurement scheme that applies to the meter; and

(b) the scheme complies with section 637.

Maximum penalty—500 penalty units.

642 Controller responsible for compliance with measurement scheme

(1) The controller of a meter must ensure everyone carrying out activities to which the measurement scheme for the meter applies complies with the scheme.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) Evidence that another person has been convicted of an offence against section 640 or 641 is evidence that the controller committed the offence of failing to ensure the other person complies with the scheme.

Division 3 Regulatory provisions

643 Chief executive's powers if no measurement scheme

(1) If the chief executive is satisfied no measurement scheme applies to a meter, the chief executive may, by notice to the controller of the meter prohibit, or impose conditions on, its use or operation.

(2) The notice must include, or be accompanied by, an information notice about the decision to make the prohibition or impose the conditions.

(3) The controller must comply with the notice.

Maximum penalty for subsection (3)—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

644 Notice by chief executive of unsatisfactory measurement scheme

(1) This section applies if the chief executive reasonably believes a measurement scheme for a meter does not comply with section 637 or must be revised under section 639.

(2) The chief executive must give the controller notice—

(a) stating the belief, and the reasons for it; and

(b) requiring the controller within a stated reasonable period to—

(i) amend the scheme so that it complies with section 637, or, if appropriate, revise the scheme under section 639, and lodge a notice that the scheme has been so amended or revised; or

(ii) lodge submissions as to why the scheme complies with section 637, or that a revision is not required under section 639.

(3) The notice may state how the chief executive considers the scheme should be amended.

645 Considering submissions

(1) This section applies if, within the period stated in a notice given under section 644(2) to a controller, the controller lodges a submission under that section.

(2) The chief executive must consider the submission.

(3) If the chief executive decides the scheme does comply or does not need to be revised, the chief executive must give the controller notice of the decision.

646 Revision notice

(1) This section applies if, after complying with section 645, the chief executive still believes the relevant measurement scheme

does not comply with section 637 or must be revised under section 639.

(2) The chief executive may give the controller notice (the ***revision notice***) requiring the controller to amend or remake the measurement scheme so that—

(a) it complies with section 637; and

(b) if the chief executive believes it must be revised under section 639—the revision is made.

(3) The revision notice must—

(a) state how the chief executive believes the measurement scheme does not comply with section 637 or must be revised under section 639; and

(b) state a period within which the controller must comply with the revision notice; and

(c) be accompanied by, or include, an information notice about the decisions to give the revision notice and to fix the stated period.

(4) The controller must comply with the revision notice.

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

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Division 4 Significant meter anomalies

647 Application of div 4

This division applies if the controller of a meter becomes aware of an anomaly relating to the meter that causes, or may cause, the meter to be less accurate than its tolerance for error.

Not authorised—indicative only

Not authorised—indicative only

648 Restrictions on use of meter

(1) The controller must, as soon as practicable, stop any use of the meter.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) The controller must not use the meter or resume the use of the meter until the anomaly has been corrected.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

649 Obligation to report if required

If the chief executive has required the controller to lodge a notice of the anomaly, or that type of anomaly, the controller must give the notice as soon as practicable.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Division 5 Other reporting requirements

650 Annual measurement report

(1) The controller of a meter must, on or before 1 September each year, lodge a measurement report about its measurement scheme for the preceding financial year that complies with section 651.

Maximum penalty—100 penalty units.

(2) It is not a defence to a proceeding for an offence against subsection (1) that the lodging of the report or information it contains might tend to incriminate the controller.

(3) However, evidence of, or evidence directly or indirectly derived from, the report or information it contains that might tend to incriminate the controller is not admissible in evidence against the controller 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.

651 Content requirements for annual measurement reports

A measurement report under section 650 must state all of the following information for the measurement scheme the subject of the report for the financial year to which the report relates—

(a) the controller's name and contact details;

(b) the nature and extent of the metering operations;

(c) whether or not the operations complied with the scheme and this Act;

(d) an assessment against the key performance indicators for the scheme, as required under section 637(1)(g);

(e) if the operations have not complied with the scheme or this Act—

(i) details of each noncompliance; and

(ii) details of any remediation of the noncompliance; and

(iii) if the noncompliance has not been remedied in whole or part—how it is proposed to remedy the noncompliance.

Not authorised—indicative only

Not authorised—indicative only

652 Power to require information about persons acting under measurement scheme

(1) The chief executive may, by a notice given to a controller of a meter, require the controller to lodge, within a stated period, notice of—

(a) the names of, and the competencies held by—

(i) each person who carries out activities for which competencies are required under the measurement scheme for the meter; or

(ii) a stated type of persons who carry out the activities; or

(b) the competencies held by a stated person who carries out the activities.

(2) The stated period must not end before 10 business days after the notice is given.

(3) The controller must comply with the requirement.

Maximum penalty for subsection (3)—100 penalty units.

Part 3 Competency assessments

653 Chief executive's power to require competency assessment

(1) The chief executive may, by notice, (a ***competency assessment notice***) require the controller of a meter to—

(a) assess the competency (a ***competency assessment***) of a person who carries out—

(i) measurement activities under the measurement scheme for the meter; or

(ii) other activities relating to the meter; and

Examples of other activities—

removing and replacing meters

(b) give the person a report about the outcome of the assessment within a stated reasonable period after the assessment takes place; and

(c) lodge a copy of the report.

(2) The competency assessment notice must state—

(a) a period (the ***assessment period***) during which the assessment must take place; and

(b) reasons for the decision to carry out the assessment.

(3) The assessment period must be at least 20 business days after the competency assessment notice is given.

(4) The competency assessment notice may also require the assessment to be carried out for the controller by a stated person.

(5) The controller must comply with the competency assessment notice.

Maximum penalty for subsection (5)—300 penalty units.

654 Costs of competency assessment

A controller to whom a competency assessment notice has been given must bear the costs of the assessment.

655 Requirements following competency assessment

(1) This section applies if the chief executive considers a report lodged under section 653 about a competency assessment shows that the person assessed is not competent to carry out an activity relating to the relevant meter.

(2) The chief executive may give the person assessed and the relevant controller notice—

(a) requiring them to—

Not authorised—indicative only

Not authorised—indicative only

(i) take stated remedial action to ensure the person assessed becomes competent to carry out the activity; and

(ii) give the chief executive notice within a stated reasonable period as to whether or not the action has been taken; or

(b) requiring the person assessed not to carry out stated activities for a stated period or until the happening of a stated event; or

Example of a stated event—

if the notice requires the taking of remedial action, the chief executive's receipt of a notice under paragraph (a)(ii) stating that the action has been taken

(c) requiring that the person assessed may carry out stated activities only on stated conditions.

(3) The person assessed and the relevant controller must comply with the notice.

Maximum penalty—300 penalty units.

(4) The giving of a notice under this section does not prevent a further competency assessment notice being given for the person assessed.

Part 4 General provisions about meters

656 Controller's obligation to test if inaccuracy suspected

If a controller of a meter suspects it may be registering inaccurately, the controller must have it tested as soon as practicable.

Maximum penalty—100 penalty units.

657 Unlawfully interfering with meters or devices prohibited

A person must not unlawfully interfere with—

(a) a meter; or

(b) the operation of a meter; or

(c) a security device, seal or stamp attached to a meter.

Maximum penalty—500 penalty units.

658 Authorisation required to install or use prepayment meters

(1) A person must not install or use a prepayment meter unless—

(a) the chief executive has approved the installation or use; and

(b) any conditions of the approval have been complied with.

Maximum penalty—300 penalty units.

(2) The approval may be given for the installation and use of a stated type of meter at a stated place or stated activity.

Part 5 Meter accuracy disputes

Division 1 Preliminary

659 Application of pt 5

(1) This part applies to disputes between an affected party for a meter and a service provider for the party about whether the meter is accurate, within its tolerance for error.

(2) However, this part does not apply to a dispute if a contract that binds the affected party and the service provider provides for resolution of the dispute.

Not authorised—indicative only

Not authorised—indicative only

660 Who is an *affected party* for a meter

(1) A person is an ***affected party*** for a meter if the person is, or may be, affected by—

(a) the meter possibly registering outside its tolerance for error; or

(b) inaccurate data obtained from the meter.

(2) Also, the chief executive is an ***affected party*** for a meter used to work out the petroleum royalty, including, for example, a meter mentioned in section 629(b).

661 Who is the *service provider* for an affected party

The ***service provider***, for an affected party, is—

(a) a person who provides a service relating to the relevant meter; or

(b) the petroleum tenure holder who must pay petroleum royalty for petroleum measured by the relevant meter.

Division 2 Test by service provider

662 Service provider test

(1) An affected party for a meter may give the party's service provider notice requiring a test to work out whether the meter is registering within its tolerance for error (a ***service provider test***).

(2) The notice must be accompanied by any reasonable fee required by the service provider.

(3) The service provider must, as soon as practicable—

(a) cause an appropriately qualified person to carry out the test; and

(b) obtain a meter test certificate for the test; and

(c) give a copy of the certificate to—

(i) the affected party; and

(ii) if the service provider is not the controller of the meter—the controller.

Maximum penalty—100 penalty units.

(4) If the service provider reasonably considers the meter can not conveniently or safely be tested on its site, the provider must immediately advise the affected party.

(5) The advice must include how long the meter will be away from the site and any additional charges likely to be incurred.

(6) The affected party may, at any time, withdraw the notice.

(7) If the withdrawal is made before the test is completed, the service provider must refund the fee for the test, less any cost already incurred in carrying out the test.

663 Content requirements for meter test certificate

A meter test certificate under this part must be a certificate by the person who carried out the test stating each of the following—

(a) full details of the test;

(b) the tolerance for error for the relevant meter;

(c) whether the meter was found to be registering within or outside its tolerance for error;

(d) if the meter was found to be registering outside its tolerance for error—

(i) the percentage of error found; and

(ii) whether the error was in favour of the affected party or the service provider; and

(iii) any known cause of the error.

Not authorised—indicative only

Not authorised—indicative only

664 Refund if test shows inaccuracy in service provider's favour

If a service provider test shows the meter tested is registering outside its tolerance for error and in the provider's favour, the provider must—

(a) pay for the cost of the test; and

(b) refund the affected party any amount the party paid the provider for the test.

Maximum penalty—100 penalty units.

665 Restriction on tester adjusting meter

If a person who carries out a service provider test of a meter finds it is not registering or registering outside its tolerance for error, the person must not adjust the meter unless—

(a) the person has told the affected party that—

(i) the meter is not registering or is registering outside its tolerance for error, and, if it is registering outside its tolerance for error, the percentage of error found; and

(ii) the person wishes to make the adjustment; and

(iii) if the adjustment is made, a validation test of the meter will not be able to be carried out; and

(b) the affected party has given the person written consent to make the adjustment.

Maximum penalty—200 penalty units.

Division 3 Validation of service provider test

666 Validation test

(1) This section applies if a service provider test has been carried out for an affected party.

(2) The party may, by notice to the service provider, require the provider to arrange for a test by any of the following to work out whether the relevant meter is registering within its tolerance for error (a ***validation test***)—

(a) an appropriately qualified person appointed by the chief executive;

(b) an accredited National Association of Testing Authorities (NATA) testing facility or an equivalent international facility;

(c) an international testing facility approved by the chief executive.

(3) The notice must be accompanied by any reasonable fee required by the appointed person or testing facility for the test.

(4) As soon as practicable after receiving the notice, the service provider must—

(a) lodge a copy of it; and

(b) if the service provider is not the controller of the meter—give the controller a copy; and

(c) arrange for the appointed person or testing facility to carry out the test.

Maximum penalty—50 penalty units.

(5) The appointed person or testing facility must, as soon as is reasonably practicable—

(a) carry out the test; and

(b) issue a meter test certificate for the test that complies with section 663; and

(c) give the service provider the certificate.

(6) The service provider must, as soon as practicable after receiving the certificate—

(a) give a copy of it to the affected party and, if the service provider is not the controller of the meter, the controller; and

Not authorised—indicative only

Not authorised—indicative only

(b) lodge a copy of it.

Maximum penalty for subsection (6)—50 penalty units.

667 Refund if test shows inaccuracy in service provider's favour

If a validation test of a meter shows it is registering outside its tolerance for error in the service provider's favour, the provider must—

(a) pay for the costs of the service provider and validation tests; and

(b) refund the affected party any amount the party paid for the relevant service provider test and the validation test.

Maximum penalty—50 penalty units.

668 Service provider's obligations if test shows inaccuracy

(1) This section applies if—

(a) a validation test of a meter shows it is not registering or is registering outside its tolerance for error; and

(b) the relevant service provider has, under section 666(5)(c), been given a meter test certificate for the test.

(2) The service provider must, unless it is uneconomic or impractical to do so, adjust the meter so it registers within its tolerance for error.

Maximum penalty—200 penalty units.

(3) If it is uneconomic or impractical to make the adjustment, the service provider must—

(a) ensure the meter is properly disconnected; and

(b) attach firmly to the meter a label clearly bearing the words—'Inaccurate: not to be used'.

Maximum penalty—200 penalty units.

Chapter 9 Safety

Part 1 Safety requirements

669 Making safety requirement

A regulation may make requirements (***safety requirements***)—

(a) for petroleum or fuel gas safety, including, for example, how to achieve an acceptable level of risk under section 700; or

(b) about the carrying out of petroleum exploration or production to ensure it does not adversely affect the safety of current or future coal mining under the Mineral Resources Act; or

(c) about GHG storage activities; or

(d) about geothermal activities, other than wet geothermal production; or

(e) about an incidental activity under section 33, 112, 403 or 442, or a stated pipeline licence incidental activity; or

(f) responsibilities and obligations of operators of operating plants or site safety managers in an overlapping area, including in relation to joint interaction management plans.

669A Regulation of gas devices and gas fittings

(1) Without limiting sections 669 and 859, a regulation may provide for the certification or labelling of gas devices or gas fittings.

(2) A regulation under subsection (1), may also provide for all or any of the following for gas devices or gas fittings—

(a) labelling for certification;

(b) energy efficiency labelling;

Not authorised—indicative only

Not authorised—indicative only

(c) approval or registration of labels;

(d) minimum energy performance standards;

(e) selling or hiring;

(f) offering, exposing or advertising for sale or hire.

Part 2 Safety management systems

Division 1 Preliminary

670 What is an *operating plant*

(1) This section applies subject to section 671.

(2) An ***operating plant*** is any of the following—

(a) a facility used to explore for, produce or process petroleum, including machinery used for completing, maintaining, repairing, converting or decommissioning a petroleum well;

Example of machinery used for maintaining or repairing a petroleum well—

machinery known in the petroleum and gas industry as a work over rig

(b) a facility that—

(i) is related to the exploration, production or processing of petroleum; and

(ii) is used to take, interfere with or treat associated water and any petroleum incidentally collected with the water;

(c) a petroleum facility;

(d) a pipeline authorised under a petroleum authority, other than a pipeline that transports only an excluded compound or produced water without any petroleum;

(e) a distribution pipeline;

(f) a distribution system;

(g) a facility that is in the area of a geothermal tenure and is used for—

(i) geothermal exploration other than for wet geothermal production; or

(ii) geothermal production other than wet geothermal production;

Examples—

the following facilities if they are not used for wet geothermal production—

- a drilling rig for a geothermal well
- equipment used for injecting into, maintaining or repairing a geothermal well
- pipes and associated valves used in the geothermal production process

(h) a facility that is in the area of a GHG authority and is—

(i) used for GHG storage exploration or GHG stream storage; or

(ii) involved in GHG storage injection testing;

(i) a GHG stream pipeline under the GHG storage Act;

(j) a facility used to drill, complete, maintain, repair, convert or decommission an authorised water bore.

(3) However, if a facility has, under a regulation under the *Work Health and Safety Act 2011*, been classified as a major hazard facility, it is an operating plant only to the extent to which that Act does not apply to the facility.

(4) Subsection (2) applies for a facility or pipeline even if it is—

(a) an on-site activity as defined under the Coal Mining Safety and Health Act; or

(b) an operation as defined under the *Mining and Quarrying Safety and Health Act 1999*.

Not authorised—indicative only

Not authorised—indicative only

(5) An ***operating plant*** is also a place, or a part of a place, at which a following activity is carried out, but only to the extent of the carrying out of the activity—

(a) a fuel gas delivery network prescribed under a regulation;

(b) an authorised activity under an authority if the activity is a geophysical survey for data acquisition;

(c) an underground gasification activity;

(d) another activity prescribed under a regulation and associated with the production, delivery, storage, transport, treatment or use of petroleum or fuel gas.

(6) An ***operating plant*** is also—

(a) all of the authorised activities for a petroleum authority other than authorised activities related to the operation of a pipeline used only to transport an excluded compound; or

(b) all of the authorised activities for a geothermal tenure or GHG authority; or

(c) all of the authorised activities for a mineral hydrocarbon mining lease that are not a coal mining operation or an on-site activity under the Coal Mining Safety and Health Act.

(7) For subsection (6)(a), (b) and (c)—

(a) the operating plant is all of the authorised activities jointly; and

(b) the authorised activities are an operating plant severally only if they are an operating plant under subsection (2) or (5).

(8) To remove any doubt, for subsection (2) it is declared that the following are not an operating plant—

(a) a facility relating to geothermal energy to the extent any part of its processes happen after an isolation valve or

distribution point where the pipeline transporting the energy ends at the entry to the facility;

(b) a facility that produces a GHG stream at its source before the stream enters a GHG pipeline that transports the stream, or the stream is otherwise transported, to a GHG storage site under the GHG storage Act;

(c) a facility mentioned in subsection (2)(j) for an authorised water bore after either of the following happens—

(i) a transfer of the bore takes effect under section 288 or the 1923 Act, section 75Q;

(ii) the bore is decommissioned and the relevant time for the bore under section 294(2) or the 1923 Act, section 75W(2) passes.

(9) A reference to an operating plant includes a reference to each stage of the plant that has commenced.

(10) In this section—

authorised water bore means a water injection bore, water observation bore or water supply bore that a relevant holder or a person for the relevant holder—

(a) drills or converts under this Act or the 1923 Act; or

(b) decommissions under this Act or the 1923 Act.

excluded compound means a substance that is—

(a) prescribed under section 11A(c); and

(b) declared by regulation to be an excluded compound for this section.

geothermal exploration see the Geothermal Act, section 13.

geothermal well see the Geothermal Act, schedule 3.

GHG storage exploration see the GHG storage Act, section 15.

Not authorised—indicative only

Not authorised—indicative only

GHG storage injection testing see the GHG storage Act, section 16.

petroleum authority means—

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

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

relevant holder means the holder of a petroleum tenure, water monitoring authority, 1923 Act petroleum tenure or water monitoring authority under the 1923 Act.

671 Limitation for facility or pipeline included in coal mining operation

(1) This section applies for a facility or pipeline that is, or is part of, a coal mining operation or an on-site activity under the Coal Mining Safety and Health Act.

(2) The facility or pipeline is an operating plant only if—

(a) it is used to explore for, extract, produce, process, release or transport coal seam gas (the ***activity***); and

(b) one of the following applies—

(i) the activity is carried out under a mineral hydrocarbon mining lease; or

(ii) the person who holds the mining lease, the area of which includes the area on which the activity is carried out, also holds a petroleum lease the area of which includes the area; or

(iii) the activity is carried out under the Mineral Resources Act, section 318CN.

(3) An operating plant mentioned in subsection (2) is a ***coal mining-CSG operating plant***.

672 What is a *stage* of an operating plant

(1) A ***stage***, of an operating plant, means any of the following for the plant—

(a) commissioning;

(b) operation;

(c) maintenance or modification;

(d) decommissioning.

(2) A ***stage***, of an operating plant, also includes construction work for an operating plant or proposed operating plant if—

(a) the work is within or part of an existing operating plant; or

(b) the work is adjacent to existing operating plant and the safety management system for the plant provides that the system applies to the work; or

(c) the work is the process called 'rigging up and down' of a drill rig and any associated plant or equipment required for the operation of the rig.

673 Who is the *operator* of an operating plant

(1) This section provides for who is the ***operator*** of an operating plant.

(2) For a coal mining-CSG operating plant, the operator is the relevant site senior executive under the Coal Mining Safety and Health Act.

(3) Otherwise, the operator is the person who is responsible for managing and ensuring the safe operation of the plant.

Division 2 Operator's obligations

Note—

See also section 694.

Not authorised—indicative only

Not authorised—indicative only

674 Requirement to have safety management system

(1) The operator of an operating plant must—

(a) for each stage of the plant, make or adopt a safety management system that complies with—

(i) section 675; and

(ii) if the plant is used to explore for, extract, produce or release petroleum within coal seams—section 705C; and

(b) implement and maintain the system.

Maximum penalty—1,500 penalty units.

(2) The operator of an operating plant must not begin a stage of the plant unless—

(a) the operator has made or adopted a safety management system that applies to the stage; and

(b) the system complies with section 675; and

(c) if the plant is used to explore for, extract, produce or release petroleum within coal seams—the system complies with section 705C.

Maximum penalty—1,000 penalty units.

(3) A safety management system may apply to more than 1 operating plant.

(4) However, the system must still comply with section 675 in relation to each operating plant to which the system applies.

Note—

For coal mining-CSG operating plant, see division 4 (Special provisions for safety management systems for coal mining-CSG operating plant).

(5) Also, if chapter 9, part 4, division 5, subdivision 1 applies for an operating plant, the safety management system must include a joint interaction management plan.

675 Content requirements for safety management systems

(1) A safety management system for an operating plant must include details of each of the following to the extent they are appropriate for the plant—

(a) a description of the plant, its location and operations;

(b) organisational safety policies;

(c) organisational structure and safety responsibilities;

(ca) for an operating plant, other than a coal mining–CSG operating plant—the operator of the plant;

(cb) for each site mentioned in paragraph (ca)—the site safety manager;

(d) each site at the plant for which a site safety manager is required;

(e) a formal safety assessment consisting of the systematic assessment of risk and a description of the technical and other measures undertaken, or to be undertaken, to control the identified risk;

(f) if there is proposed, or there is likely to be, interaction with other operating plant or contractors in the same vicinity, or if there are multiple operating plant with different operators on the same petroleum tenure, geothermal tenure or GHG authority—

(i) a description of the proposed or likely interactions, and how they will be managed; and

(ii) an identification of the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and

(iii) an identification of the safety responsibilities of each operator;

(g) a skills assessment identifying the minimum skills, knowledge, competencies and experience requirements for each person to carry out specific work;

Not authorised—indicative only

Not authorised—indicative only

(h) a training and supervision program containing the mechanism for imparting the skills, knowledge, competencies and experience identified in paragraph (g) and assessing new skills, monitoring performance and ensuring ongoing retention of skill levels;

(i) safety standards and standard operating and maintenance procedures applied, or to be applied, in each stage of the plant;

(j) control systems, including, for example, alarm systems, temperature and pressure control systems, and emergency shutdown systems;

(k) machinery and equipment relating to, or that may affect, the safety of the plant;

(l) emergency equipment, preparedness and procedures;

(m) communication systems including, for example, emergency communication systems;

(ma) a process for managing change including a process for managing any changes to plant, operating procedures, organisational structure, personnel and the safety management system;

(n) the mechanisms for implementing, monitoring and reviewing and auditing safety policies and safety management systems;

(p) key performance indicators to be used to monitor compliance with the system and this Act;

(q) mechanisms for—

(i) recording, investigating and reviewing incidents at the plant; and

(ii) implementing recommendations from an investigation or review of an incident at the plant;

(r) record management, including, for example, all relevant approvals, certificates of compliance and other documents required under this Act;

(s) to the extent that, because of the *Work Health and Safety Act 2011*, schedule 1, part 2, division 1, that Act does not apply to a place or installation at the plant, details, including codes and standards adopted, addressing all relevant requirements under that Act that would, other than for that section, apply;

(t) if the operating plant is a major hazard facility under the *Work Health and Safety Regulation 2011*—each matter not mentioned in paragraphs (b) to (r) that is mentioned in schedule 16, 17 or 18 of that regulation;

(u) another matter prescribed under a regulation.

(2) However, details, or full details, of a matter mentioned in subsection (1) need not be included in the system if—

(a) because of the nature, size or type of the operating plant, it is inappropriate to include the details; and

(b) the system—

(i) complies with each relevant safety requirement or, if there is no relevant safety requirement for the matter, other accepted industry practices for the matter; and

(ii) states why it is inappropriate to include the details.

(3) If the description of operating plant includes a description of pipeline that transports produced water, the description must identify—

(a) which, if any, pipelines transport produced water together with petroleum; and

(b) a distinguishable part of the pipeline from which the pipeline would be free from petroleum.

Example for paragraph (b)—

isolation valve or an inlet to a water treatment plant

(4) A formal safety assessment under subsection (1)(e), must, as far as practicable, state ways to control risks associated with the operating plant to an acceptable level by—

Not authorised—indicative only

Not authorised—indicative only

(a) eliminating or minimising hazards at the plant; and

(b) implementing measures to minimise the likelihood, and limit the consequences, of significant incidents at the plant.

(5) In this section—

distinguishable part, of a pipeline, does not include a mere length of pipe.

675A Generic safety management systems

(1) For each stage of an operating plant, the operator of the plant is taken to have a safety management system that complies with section 675 if the operator adopts a generic SMS for that stage.

(2) However, subsection (1) does not apply for a stage of a plant if—

(a) the chief inspector considers that, because of the complexity of the plant or the particular risks associated with the plant, the generic SMS does not sufficiently manage the level of risk at the plant for the stage; and

(b) the chief inspector gives the operator a written notice stating that the safety management system for the plant must comply with section 675 for the stage.

(3) In this section—

generic SMS, for a stage of an operating plant (the ***relevant plant***), means a system in the form of a safety management system that is prescribed under a regulation for the stage of an operating plant of the same type as the relevant plant.

676 Publication of and access to safety management system

(1) The operator of an operating plant must—

(a) whenever the plant is operating, keep a copy of the safety management system for the plant or the part of the system relevant to the plant, open for inspection—

(i) at the plant; or

(ii) if because of the nature, size or type of the plant it is impracticable to keep it at the plant—at another place where it is reasonable to have it open for inspection; and

(b) display, and keep displayed, in a conspicuous place at the plant where it can be easily read by anyone to whom the system, or part of the system, may apply, a notice stating where the copy of the system is open for inspection; and

(c) ensure each person who has an obligation under the system is told they have an obligation under the system within a reasonable period before the system requires them to comply with the obligation.

Maximum penalty—100 penalty units.

(2) In this section—

open for inspection means open for inspection by anyone to whom the system, or part of the system, may apply.

677 Operator responsible for compliance with safety management system

(1) The operator of an operating plant must take all reasonable steps to ensure everyone who has an obligation under the safety management system for the plant complies with their obligations under the system.

Maximum penalty—500 penalty units.

(2) Evidence that another person has been convicted of an offence against section 702 is evidence that the operator committed the offence of failing to take all reasonable steps to ensure the other person complies with their obligations under the system.

Not authorised—indicative only

Not authorised—indicative only

678 When safety management system must be revised

(1) The operator of an operating plant must revise the safety management system for the plant if any of the following make the revision appropriate—

(a) the making or amendment of a safety code, safety requirement or a standard;

(b) the happening of an event relevant to the plant of which the operator is aware, or ought reasonably to have been aware;

Examples of an event—

a development in technical knowledge or hazard assessment

(c) changes or proposed changes to the plant that could result in an increase in the overall risk levels, or a specific risk level, for the plant.

Maximum penalty—1,500 penalty units.

(2) In this section—

revise means amend or remake.

678A Requirement to have resulting records for safety management system

(1) The operator of an operating plant must—

(a) ensure resulting records for the safety management system for the plant are made and kept for a period of 7 years; and

(b) whenever the plant is operating, keep a copy of the resulting records open for inspection—

(i) at the plant; or

(ii) if because of the nature, size or type of the plant it is impracticable to keep the records at the plant—at another place where it is reasonable to have the records open for inspection.

Maximum penalty—1,500 penalty units.

(2) In this section—

resulting records, for a safety management system for an operating plant, means all of the following records that are appropriate for the plant, demonstrating that the safety management system has been implemented and monitored—

(a) records about carrying out a formal safety assessment mentioned in section 675(1)(e);

(b) records about carrying out a skills assessment mentioned in section 675(1)(g);

(c) records about carrying out a training and supervision program mentioned in section 675(1)(h);

(d) records about how and when standard operating and maintenance procedures were applied;

(e) records about the maintenance of machinery and equipment relating to, or that may affect, the safety of the plant;

(f) records about implementing, monitoring and reviewing and auditing safety policies and safety management systems;

(g) records of investigating and reviewing incidents at the plant;

(h) records about the implementation of recommendations from an investigation or review of an incident at the plant;

(i) records about testing and monitoring control systems;

(ia) records about the details of the operator mentioned in section 675(1)(c) and the site safety manager mentioned in section 675(1)(cb);

(j) records, prescribed under a regulation, about a matter prescribed under section 675(1)(u).

Not authorised—indicative only

Not authorised—indicative only

Division 3 Validation of safety management systems

679 Notice by chief inspector

(1) This section applies if the chief inspector reasonably believes a safety management system for an operating plant, or an aspect of the system—

(a) does not comply with section 675; or

(b) is insufficient to ensure an acceptable level of risk at the plant; or

(c) must be revised under section 678.

(2) The chief inspector must give the operator of the plant notice (a ***validation notice***)—

(a) stating the belief, and the reasons for it; and

(b) requiring the operator within a stated reasonable period to—

(i) amend the system so that it complies with section 675, or, if appropriate, revise the system under section 678, and give the chief inspector notice that the system has been so amended or revised; or

(ii) lodge submissions as to why the system complies with the section.

(3) The validation notice may state how the chief inspector considers the system should be amended.

(4) The operator must comply with the validation notice.

Maximum penalty for subsection (4)—1,500 penalty units.

680 Considering submissions

(1) This section applies if, within the period stated in a notice given, under section 679(2), to an operator, the operator lodges a submission under that section.

(2) The chief inspector must consider the submission.

(3) If the chief inspector decides the system does comply or does not need to be revised, the chief inspector must give the operator notice of the decision.

681 Revision notice

(1) This section applies if, after complying with section 680, the chief inspector still believes the relevant safety management system does not comply with section 675 or must be revised under section 678.

(2) The chief inspector may give the operator notice (the ***revision notice***) requiring the operator to amend or remake the safety management system so that—

(a) it complies with section 675; and

(b) if the chief inspector believes it must be revised under section 678—the revision is made.

(3) The revision notice must—

(a) state how the chief inspector believes the safety management system does not comply with section 675 or must be revised under section 678; and

(b) state a period within which the operator must comply with the revision notice; and

(c) be accompanied by, or include, an information notice about the decisions to give the revision notice and to fix the stated period.

(4) The operator must comply with the revision notice.

Maximum penalty for subsection (4)—1,500 penalty units.

682 Other inspector's powers not affected

The giving of a notice under this division does not limit or otherwise affect an inspector's powers under this Act.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Special provisions for safety management systems for coal mining-CSG operating plant

683 Application of div 4

This division applies for a coal mining-CSG operating plant if—

(a) the operator of the operating plant has a safety and health management system for, or that includes, the operating plant; and

(b) the system complies with—

(i) the Coal Mining Safety and Health Act, section 62; and

(ii) the content requirements under section 675 for a safety management system.

684 Integration with safety and health management system

(1) The operator of the operating plant is taken to have complied with sections 674 and 678.

(2) The safety and health management system is taken to be, or include, the safety management system for the plant.

685 Alternative compliance with s 676

The operator of coal mining-CSG operating plant is taken to have complied with section 676 if the operator complies with the Coal Mining Safety and Health Act, section 62(4) and (5).

686 Restriction on application of div 3

The chief inspector can only give a notice under division 3 for the parts of the safety and health management system directly affecting the operation of the operating plant.

Part 3 Safety positions and information notice

Division 1 Executive safety manager

687 Who is the *executive safety manager* of an operating plant

(1) This section provides for who is the ***executive safety manager*** for an operating plant.

(2) For authorised activities for a petroleum authority, geothermal tenure or GHG authority that, under section 670(6)(a) and (7), are jointly an operating plant, the executive safety manager is—

(a) if the holder of the authority or tenure is an individual—the holder; or

(b) the senior managing officer of the corporation or organisation responsible for the management and safe operation of the authorised activities for the authority or tenure.

(3) For a coal mining-CSG operating plant, the executive safety manager is the site senior executive appointed under the Coal Mining Safety and Health Act.

(4) Otherwise, the executive safety manager is—

(a) if the operator is an individual—the operator; or

(b) the senior managing officer of the corporation or organisation responsible for the management and safe operation of the operating plant.

(5) In this section—

senior managing officer, of a corporation or organisation, means the person in Australia who is the most senior officer (however called) of the corporation or organisation in

Not authorised—indicative only

Not authorised—indicative only

Australia responsible for managing the corporation or organisation.

687A Requirement of joint holders to give information about executive safety manager

(1) This section applies if—

(a) there is more than 1 holder of a petroleum authority, geothermal tenure or GHG tenure; and

(b) 1 or more of the holders is a corporation; and

(c) operating plant is being operated or is proposed to be operated in the authority's or tenure's area.

(2) The holders must ensure the chief inspector is given a notice stating which corporation or organisation is responsible for the management and safe operation of operating plant in the area.

Maximum penalty—500 penalty units.

(3) In a proceeding under or in relation to this Act, the notice is evidence of which corporation or organisation is responsible for the management and safe operation of operating plant in the area.

688 Executive safety manager's general obligations

(1) The executive safety manager of an operating plant must—

(a) if the operator is a corporation—nominate an individual as a representative of the operator to give and receive information for the operator under this Act; and

(b) ensure the operator of the plant has, for each stage of the plant, a system that is—

(i) a safety management system for the plant made under section 674(1)(a) after consultation with the workers at the plant; or

(ii) a generic SMS adopted for the plant; and

(c) approve the system before it is put into effect; and

(d) ensure the system is implemented in a way that effectively manages the risks associated with the plant.

Maximum penalty—2,000 penalty units.

(2) To remove any doubt, it is declared that—

(a) a nomination of an operator's representative under subsection (1)(a) does not affect an obligation imposed on the operator under this Act; and

(b) any information given to or by an operator's representative is taken to have been given to or by the operator.

Division 2 Site safety manager

692 Site safety manager

(1) If the safety management system for an operating plant requires a site safety manager for a site at the plant, the operator of the plant must appoint an appropriately qualified person as the site safety manager for the site.

Maximum penalty—500 penalty units.

(2) The chief inspector may give the operator of an operating plant a notice directing the operator to, within a stated reasonable period, appoint 1 or more appropriately qualified persons as a site safety manager for—

(a) a stated site at the plant; or

(b) a stated activity at a stated site at the plant.

(3) The operator must comply with the notice.

Maximum penalty—500 penalty units.

(4) More than 1 person may be appointed as a site safety manager for a site at an operating plant.

Not authorised—indicative only

Not authorised—indicative only

693 Site safety manager's obligations

The site safety manager for a site at an operating plant must take all reasonable steps to ensure—

(a) each person who enters the site is given an appropriate induction that enables the person to comply with section 702; and

Note—

See also section 699 (General obligation to keep risk to acceptable level).

(b) each person at the site complies with standard operating procedures, emergency response procedures and other measures necessary for the safety of the site and the person; and

(c) each person working at the site performs their functions safely and follows standard operating procedures for the plant; and

(d) necessary first aid, safety and other like equipment that is appropriate for the likely hazards of the site is—

(i) available for use; and

(ii) adequately maintained; and

(iii) reasonably available to anyone authorised to be on the site; and

(e) relevant staff are trained in first aid, emergency and other general safety procedures.

Maximum penalty—1,000 penalty units.

694 Default site safety manager

(1) This section applies if no-one has been appointed as the site safety manager for a site at an operating plant.

(2) The site safety manager for the site is—

(a) if the operator is an individual—the operator; or

(b) if the operator is a corporation—the executive safety manager of the operating plant.

Division 3 Information notices

694A Executive safety manager and operator to give information notices

(1) The executive safety manager of an operating plant must give the chief inspector a notice stating who is—

(a) the operator; and

(b) the executive safety manager; and

(c) if the operator is a corporation, the representative of the operator.

Maximum penalty—500 penalty units.

(2) The operator of an operating plant must give the chief inspector a notice stating the information prescribed by regulation about the operating plant.

Maximum penalty—500 penalty units.

(3) For subsection (2), a regulation may prescribe information that is necessary for ensuring and promoting the safety of the operating plant.

Examples of information for ensuring and promoting the safety of an operating plant—

1 a description of the operating plant including the operating plant's location and nature and extent of activities

2 details of the commissioning or decommissioning of the operating plant

(4) A notice under this section must be given—

(a) in the approved form; and

(b) in the way prescribed by regulation; and

(c) no later than—

Not authorised—indicative only

Not authorised—indicative only

(i) for a notice under subsection (1)—10 business days after the commencement and, after that period, any time the operator, executive safety manager or representative (if any) of the operator changes; and

(ii) for a notice under subsection (2)—a day prescribed by regulation.

(5) In this section—

representative, of an operator, means a individual nominated under section 688(1)(a).

Part 4 Other safety obligations

Division 1 Obligations relating to plant or equipment for use in operating plant

695 Exclusion of application of division for coal mining-CSG operating plant

This division does not apply for a coal mining-CSG operating plant.

Note—

For coal mining-CSG operating plant, see the Coal Mining Safety and Health Act, sections 43 to 47.

696 Designers, importers, manufacturers and suppliers

(1) This section applies if—

(a) a person designs, imports, manufactures, modifies or supplies plant or equipment for use at a particular operating plant; and

(b) a safety requirement applies to that type of plant or equipment.

(2) The person must take reasonable steps to ensure the plant or equipment, as designed, imported, manufactured, modified or supplied, complies with the safety requirement.

Maximum penalty—500 penalty units.

Note—

This provision is an executive liability provision—see section 814.

(3) If the person becomes aware of a defect or hazard associated with the plant or equipment, the person must take reasonable steps to inform the operator, or proposed operator, of the operating plant of—

(a) the nature of the defect or hazard and its significance; and

(b) any controls or modifications the person is aware of that have been developed to eliminate or correct the defect or hazard or to manage the risk.

Maximum penalty—500 penalty units.

Note—

This provision is an executive liability provision—see section 814.

697 Installers

(1) If a safety requirement applies to a type of plant or equipment, a person must not install plant or equipment of that type at an operating plant, or proposed operating plant, unless the installation complies with the safety requirement.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

(2) If the person is or becomes, aware of a safety risk in relation to the plant or equipment or the installation before the plant or equipment becomes operational, the person—

(a) must not operate the plant or equipment; and

(b) must give the operator of the operating plant, or proposed operating plant, notice of the safety risk.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) The person must, before making the plant or equipment operational, certify that the installation complies with all relevant safety requirements.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(4) In this section—

operator, of a proposed operating plant, means the person who will be the operator of the plant when it becomes operational.

Division 3 Control and management of risk at operating plant

699 General obligation to keep risk to acceptable level

(1) This section applies to a person on whom—

(a) an obligation is imposed under this Act for an operating plant; or

(b) an obligation is imposed under the safety management system for an operating plant.

(2) To the extent of the person's obligation mentioned in subsection (1), the person must take all reasonable steps to ensure no person or property is exposed to a level of risk in relation to the operating plant that is more than an acceptable level.

Maximum penalty—100 penalty units.

699A Operator's obligation for particular adjacent or overlapping authorities

The operator of an operating plant must not carry out an activity at the plant if the activity creates an unacceptable level of risk to—

(a) a person or operating plant at adjacent or overlapping coal mining operations under the Coal Mining Safety and Health Act; or

(b) a person carrying out authorised activities or for an operating plant used to carry out authorised activities under an adjacent or overlapping petroleum tenure, geothermal tenure, 1923 Act petroleum tenure or GHG tenure.

Maximum penalty—1,500 penalty units.

700 What is an *acceptable level* of risk

(1) For a risk to a person or property to be at an ***acceptable level***, the activities must be carried out so that the level of risk for the activities—

(a) is within acceptable safety limits, having regard to each relevant safety requirement; and

(b) is as low as is reasonably practicable.

Not authorised—indicative only

Not authorised—indicative only

(2) To decide whether the level of risk is within acceptable safety limits and as low as reasonably practicable, regard must be made to—

(a) the likelihood of injury or illness to a person, or of property damage, from the risk; and

(b) the probable severity of the injury, illness or damage; and

(c) whether or not the risk is avoidable by reasonable means.

701 When acceptable level of risk is achieved

An acceptable level of risk to a person or property, from activities at an operating plant is achieved if management and operating systems are in effect that—

(a) identify, analyse and assess risk; and

(b) remove, minimise or modify unacceptable or avoidable risks; and

(c) monitor levels of risk; and

(d) investigate and analyse the cause of actual, or high potential, incidents at the plant to prevent or reduce their recurrence; and

(e) review the effectiveness of implemented risk control measures, and take appropriate corrective and preventative action; and

(f) comply with any relevant regulation.

Division 4 Other obligations of persons at operating plant

702 Requirement to comply with safety management system

A person at an operating plant must take all reasonable steps to comply with safety procedures and other obligations under the safety management system for the plant to the extent the procedures and obligations apply to the person.

Maximum penalty—100 penalty units.

703 Requirement to comply with instructions

A person at an operating plant must comply with lawful instructions given for the safety of persons by the operator of, or a supervisor for, the plant.

Maximum penalty—100 penalty units.

704 Wilful or reckless acts or omissions that affect safety

A person at an operating plant must not wilfully or recklessly do an act or make an omission that might adversely affect the safety of anyone at the plant.

Maximum penalty—500 penalty units.

Not authorised—indicative only

Not authorised—indicative only

Division 5 Additional obligations of operator of operating plant on coal or oil shale mining lease or coal resource authority

Subdivision 1 Joint interaction management plans

705 Application of sdiv 1

This subdivision applies for an operating plant, other than a coal mining-CSG operating plant, if—

(a) the operating plant operates or is to operate in any of the following areas (each an ***overlapping area***)—

(i) the area of a coal or oil shale mining lease or tenement;

(ii) an area adjacent to the area of a coal or oil shale mining lease or tenement;

(iii) the area of a coal resource authority to which the Common Provisions Act, chapter 4 applies; and

(b) the operation of the plant physically affects, or may physically affect, the safety of persons or the mining of coal or oil shale under the coal or oil shale mining lease or tenement or coal resource authority.

705A Definitions for sdiv 1

In this subdivision—

authorised activities operating plant means an operating plant under section 670(6).

coal resource authority see the Common Provisions Act, section 103.

joint interaction management plan see section 705B(1)(a).

overlapping area see section 705(a).

site senior executive means the site senior executive for a coal mine in the overlapping area.

705B Requirement for joint interaction management plan

(1) The operator of an authorised activities operating plant in the overlapping area must—

(a) before carrying out activities in the overlapping area, make a plan for the plant that applies to all operators of operating plants in the overlapping area and that complies with section 705C (a ***joint interaction management plan***); and

(b) before making the plan—

(i) make reasonable attempts to consult with the operators of each operating plant in the overlapping area and the site senior executive to jointly identify, analyse and assess risks and hazards in the overlapping area; and

(ii) have regard to any reasonable provisions for the plan, relating to the management of the risks and hazards that are proposed by the site senior executive within 20 days after receiving a copy of the proposed plan; and

(iii) either—

(A) reach agreement with the site senior executive about the content of the proposed plan; or

(B) apply for arbitration of the dispute under subsection (3) or (4); and

(c) comply with the plan.

Maximum penalty—500 penalty units.

(2) For subsection (1)(b)(i), the operator is taken to have made reasonable attempts to consult with the site senior executive if—

Not authorised—indicative only

Not authorised—indicative only

(a) the operator gives the site senior executive a copy of the proposed plan; and

(b) the site senior executive has not, within 20 days after being given the copy, made any proposal to the operator about the provisions for the plan.

(3) If the operator and the site senior executive can not agree on the content of a proposed plan within 3 months after the site senior executive receives a copy of the proposed plan, the operator must apply for arbitration of the dispute.

(4) Despite subsection (3), either party may apply for arbitration of the dispute at any time.

705C Content of joint interaction management plan

(1) A joint interaction management plan must—

(a) be stored or kept together with the other parts of the safety management system for the plant; and

(b) for an overlapping area mentioned in section 705(a)(iii)—identify, if any, each IMA, RMA and SOZ, as defined under the Common Provisions Act, in the overlapping area; and

(c) identify the hazards and assess the risks to be controlled that—

(i) are, or may be, created by the mining operations or petroleum activities carried out in the overlapping area; and

(ii) affect, or may be likely to affect, the safety and health of persons in the overlapping area; and

(d) for each risk—identify the triggers or material changes, or likely triggers or material changes, that—

(i) must be monitored to ensure the safety and health of persons in the overlapping area; and

(ii) will require the plan to be reviewed; and

(e) for each trigger or material change identified under paragraph (d)—

(i) state the response procedures and times; and

(ii) state the type of action required for the response; and

Examples of action that may be required—

1 a risk analysis

2 notice to the site senior executive of—

(a) a drop in hydrostatic pressure that may show a potential hazard to persons carrying out mining; or

(b) a change in water level that may indicate differences in fluid interconnections with an adjacent mine

(iii) state the reporting procedures; and

(f) if there is proposed, or there is likely to be, interaction with other persons in the overlapping area—

(i) describe the proposed or likely interactions, and how they will be managed; and

(ii) identify the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and

(iii) identify the safety responsibilities of each person; and

(iv) state the name of the site senior executive and any other senior persons in the management structure for the coal mine under the *Coal Mining Safety and Health Act 1999*; and

(g) describe the way in which the plan will be reviewed and revised, including ongoing consultation with the persons mentioned in paragraph (f); and

(h) describe the way in which details of any new operator or site safety manager will be communicated to the site senior executive; and

Not authorised—indicative only

Not authorised—indicative only

(i) include any other information prescribed by regulation.

(2) A regulation may prescribe a guide of potential hazards that may be created by an operating plant in relation to mining coal (the ***potential hazard guide***).

(3) The potential hazard guide must be referred to for help in identifying the hazards and assessing the risks mentioned in subsection (1)(c) but is not intended to be exhaustive.

(4) To remove any doubt, it is declared that a joint interaction management plan may apply to more than 1 overlapping area.

705CA Notification of making of joint interaction management plan

As soon as practicable after making a joint interaction management plan, and before carrying out activities in the overlapping area or at an operating plant in the overlapping area, the operator of the authorised activities operating plant must notify the chief inspector that the plan has been made.

Maximum penalty—40 penalty units.

705CB Review

(1) This section applies if—

(a) it is proposed to change a joint interaction management plan; or

(b) a change in the overlapping area, or at an operating plant in the overlapping area, is likely to give rise to an additional risk to safety or health in the overlapping area or at the plant; or

(c) any of the following circumstances exist—

(i) an additional risk to safety or health in the overlapping area, or at an operating plant in the overlapping area, is identified;

(ii) consultation with workers indicates a review is necessary;

(iii) a risk control measure did not control the risk it was intended to control to an acceptable level.

(2) For subsection (1)(b), a change in the overlapping area, or at an operating plant in the overlapping area, includes—

(a) a change to any aspect of the overlapping area or the plant itself; and

(b) a change to a system of work, process or procedure in the overlapping area or at the plant.

(3) The operator of the authorised activities operating plant must review and, if necessary, revise the joint interaction management plan.

Maximum penalty—200 penalty units.

(4) The review must take place in consultation with the operators of each operating plant in the overlapping area, the site senior executive and any other workers to the extent they are affected by the matters under review.

Maximum penalty—200 penalty units.

(5) The review must take place—

(a) for subsection (1)(a) or (b)—before the change to the joint interaction management plan is made; or

(b) for subsection (1)(c)—as soon as possible after the circumstance exists.

Maximum penalty—200 penalty units.

(6) A revision of the plan under subsection (3) must be recorded on the plan.

Maximum penalty—200 penalty units.

(7) If the operator of the authorised activities operating plant and the site senior executive can not agree on the content of a revision of the plan, either party may apply for arbitration of the dispute.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 2 Additional reporting requirement

705D Reporting of ~~particular accidents and prescribed high potential incidents~~designated accident or incident

(1) This section applies to the operator of operating plant, other than a coal mining-CSG operating plant, operated in the area of a coal or oil shale mining lease.

(2) The operator must, as soon as possible after becoming aware that a designated accident or incident has happened, notify the site senior executive under the Coal Mining Safety and Health Act for the coal mine the subject of the coal or oil shale mining lease about the accident or incident, either orally or by notice.

~~(2) The operator must, on becoming aware that a designated accident or incident has happened immediately report the accident or incident, either orally or by notice.~~

(3) If the operator makes an oral report under subsection (2), the operator must confirm the report by notice within 48 hours.

~~(4) The report and confirmation must be made to—~~

~~(a) to the senior site executive under the Coal Mining Safety and Health Act for the coal mine the subject of the mining lease; and~~

~~(b) the chief inspector.~~

(~~5~~4) In this section—

designated accident or incident means an accident or incident as follows that relates to the safety of any coal mining operation—

(a) an accident that causes—

(i) the death of a person; or

(ii) a person to be admitted to a hospital as an in-patient for treatment for a bodily injury

endangering, or likely to endanger, the person's life; or

(iii) a person to suffer an injury causing, or likely to cause, a permanent injury to the person's health;

(b) ~~a high potential incident~~an incident the operator of ~~a type prescribed~~the plant is required to report to the chief inspector under section 706, to the ~~Coal Mining Safety and Health Act~~extent the incident affects, or is likely to affect, ~~section 198(2)(b)~~the safety and health of coal mine workers.

Division 6 Prescribed incident reporting and security of incident sites

706 Requirement to report prescribed incident

(1) A regulation may prescribe the types of incidents happening at an operating plant or relating to a gas related device (each a ***prescribed incident***) that must be notified to the chief inspector.

(2) If a prescribed incident happens at an operating plant, the operator of the plant must notify the chief inspector.

Maximum penalty—100 penalty units.

(3) If a prescribed incident happens at a business other than at an operating plant and the prescribed incident relates to a gas related device, the person carrying on the business must notify the chief inspector.

Maximum penalty—100 penalty units.

(4) The notification under subsection (2) or (3) must be made—

(a) by telephone as soon as possible after becoming aware of the prescribed incident, using the telephone number notified on a Queensland Government website for the purpose; and

Not authorised—indicative only

Not authorised—indicative only

(b) in the approved form within 2 business days after the prescribed incident.

(5) The approved form mentioned in subsection (4)(b) must make provision for particular information to be provided about the prescribed incident.

(6) The telephone notification mentioned in subsection (4)(a) must include the required information to the extent the required information is known to the operator mentioned in subsection (2) or the person mentioned in subsection (3).

(7) If the operator mentioned in subsection (2) or the person mentioned in subsection (3) does not know the required information at the time the operator or person is required to notify the chief inspector under subsection (4)(b), the operator or person must—

(a) take all reasonable steps to find out the required information as soon as possible; and

(b) as soon as possible after the required information becomes known to the operator or person, give the required information to the chief inspector.

Maximum penalty—100 penalty units.

(8) For a proceeding under subsection (2), (3) or (7), it is not a defence that the giving of the required information might tend to incriminate the operator or the person.

(9) The required information is not admissible in evidence against the operator or person in a criminal proceeding.

(10) Subsection (9) does not prevent the required information being admitted in evidence in a criminal proceeding about the falsity or misleading nature of the required information.

(11) The operator or person is taken to have complied with subsection (2) or (3) if—

(a) the *Coal Mining Safety and Health Act 1999*, section 198 applies to the operator or person; and

(b) the operator or person has complied with that section.

(12) In this section—

required information means the information required by the approved form mentioned in subsection (4)(b).

~~**706 Requirement to report prescribed incident**~~

~~(1) A regulation may prescribe for incidents happening at an operating plant or for incidents relating to a gas related device —~~

~~(a) the types of incidents (***prescribed incidents***) that must be reported to the chief inspector; and~~

~~(b) the way in which prescribed incidents must be reported.~~

~~(2) If a prescribed incident happens at an operating plant, the operator of the plant must ensure that the incident is reported to the chief inspector in the prescribed way.~~

~~Maximum penalty—50 penalty units.~~

~~(3) If a prescribed incident happens at a business other than at an operating plant and the prescribed incident relates to a gas related device, the person carrying on the business must ensure that the incident is reported to the chief inspector in the prescribed way.~~

~~Maximum penalty—50 penalty units.~~

~~(4) For subsections (2) and (3), the incident must be reported —~~

~~(a) within the period prescribed under a regulation; or~~

~~(b) if no period is prescribed—immediately.~~

~~(5) A person is taken to have complied with subsection (2) or (3) if the Coal Mining Safety and Health Act, section 198(1), applies to the person and the person has complied with that subsection.~~

707 Obligation to restrict access to incident site

(1) This section applies if—

Not authorised—indicative only

Not authorised—indicative only

(a) a prescribed incident happens at an operating plant; or

(b) a prescribed incident relating to a gas related device happens at a business other than an operating plant.

(2) If the operator of the operating plant or person carrying on the business is required to immediately report the incident to the chief inspector under section 706, the operator or person must, until an inspector otherwise directs, take action reasonably necessary to—

(a) restrict access to the site at which the prescribed incident happened or is happening; and

(b) protect anything at the site from being tampered with.

Example of action—

erecting barriers or signs prohibiting unauthorised persons from entering the site

Maximum penalty—500 penalty units.

(3) An inspector may take action, or direct the operator of the operating plant or person carrying on the business to take a particular action, the inspector considers reasonably necessary to—

(a) restrict access to the site at which the prescribed incident happened or is happening; and

(b) protect anything at the site from being tampered with.

(4) The operator of the operating plant or person carrying on the business must comply with a direction given to the operator or person under subsection (3).

Maximum penalty—500 penalty units.

708 Offence to enter or remain in incident site if access restricted

(1) This section applies if, under section 707, action has been taken to restrict access to the site of a prescribed incident.

(2) A person must not enter, or remain in, the site unless the person—

(a) is an inspector, or is authorised by an inspector; or

(b) enters, or remains in, the site to save life or prevent further injury.

Maximum penalty—500 penalty units.

(3) A person on the site, other than an inspector, must take all reasonable steps to minimise disturbance of the site.

Maximum penalty—500 penalty units.

Division 7 Obligation to comply with safety requirements and instructions

708A Offence not to comply with safety requirement

(1) A person must comply with all safety requirements.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) Subsection (1) does not apply in relation to sections 696, 697, 731AA and 734.

708B Chief inspector may issue safety alerts and instructions

(1) A safety alert is advisory only and may recommend that a person or the general public do or not do something.

(2) A safety instruction is a direction requiring a person or the general public to do or not do something.

(3) If the chief inspector believes there is a specific safety issue in relation to the petroleum or fuel gas industry, to geothermal activities or to GHG storage activities, the chief inspector may

Not authorised—indicative only

Not authorised—indicative only

issue a safety alert or safety instruction to particular persons or the general public.

(4) A safety alert or safety instruction—

(a) must relate to a specific safety issue in relation to a matter mentioned in subsection (3); and

(b) may be inconsistent with relevant safety requirements.

(5) If a safety instruction is inconsistent with a relevant safety requirement the safety instruction prevails.

(6) A safety alert or safety instruction is issued by—

(a) if the announcement is to particular persons—giving written notice of the announcement to the persons; or

(b) if the advice is to the general public in a particular area—publishing notice of the advice in a newspaper circulating in the area; or

(c) if the advice is to the general public throughout the State—publishing notice of the advice in a newspaper circulating in each city in the State.

(7) A safety instruction must also be published in the gazette.

(8) A safety instruction stays in force until the earliest of the following—

(a) the expiration of 6 months after the day it is made;

(b) the chief inspector cancels the instruction;

(c) a regulation replaces the instruction.

(9) A safety instruction may be amended by the chief inspector while the instruction is in force, but an amendment can not extend the 6 months mentioned in subsection (8)(a).

(10) A person to whom a safety instruction applies must comply with the instruction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Part 4A Other safety offences

708C Protection from reprisal

(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, the other person—

(a) has made a complaint, or in any other way has raised, an operating plant safety issue; or

(b) has contacted or given help to an official, an executive safety manager or a site safety manager in relation to an operating plant safety issue.

~~Maximum penalty—40 penalty units.~~

Maximum penalty—1,000 penalty units.

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.

(5) For the contravention to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.

(6) This section does not limit or otherwise affect the operation of the *Public Interest Disclosure Act 2010*, chapter 4, part 1 in relation to reprisals.

(7) In this section—

detriment includes—

(a) personal injury or prejudice to safety; and

(b) property damage or loss; and

(c) intimidation or harassment; and

Not authorised—indicative only

Not authorised—indicative only

(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and

(e) financial loss; and

(f) damage to reputation, including, for example, personal, professional or business reputation.

operating plant safety issue means an issue about the safety or health of a person or persons while at an operating plant or as a result of operating plant operations.

708D Damages entitlement for reprisal

(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.

(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

(3) If the claim for the damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.

708E Children under 16 not to operate plant or equipment

The operator of an operating plant must not allow a person under the age of 16 to operate or maintain equipment or machinery at the plant.

Maximum penalty—100 penalty units.

Part 5 Boards of inquiry

Division 1 Establishment and functions

709 Minister may establish board of inquiry

(1) The Minister may, by gazette notice, establish a board of inquiry for a prescribed incident, other than an accident or incident for which a board of inquiry has been established under the Coal Mining Safety and Health Act, section 202(1).

(2) The notice must state matters relevant to the inquiry, including, for example, its chairperson and terms of reference.

710 Membership of board

(1) A board of inquiry must consist of—

(a) a magistrate; and

(b) no more than 3 independent persons with appropriate expert knowledge relevant to the prescribed incident the subject of the inquiry.

(2) The Minister must appoint the members of the board of inquiry.

(3) The magistrate is chairperson of the board.

711 Board's functions

(1) A board of inquiry must—

(a) inquire into the circumstances and probable causes of the prescribed incident the subject of the inquiry; and

(b) give the Minister a report of the board's findings as to the cause of the prescribed incident.

(2) The report must record the recommendations the board considers appropriate and other relevant matters.

Not authorised—indicative only

Not authorised—indicative only

(3) The Minister must publish the recommendations in the way the Minister considers appropriate.

Division 2 Conduct of inquiry

712 Notice of inquiry

The chairperson of a board of inquiry must give at least 14 days notice of the time and place of the inquiry to—

(a) anyone the chairperson considers may be concerned with the prescribed incident the subject of the inquiry; and

(b) anyone else the chairperson reasonably believes should be given the opportunity to appear at the inquiry.

713 Inquiry procedures

A board of inquiry, in conducting its inquiry—

(a) must observe natural justice; and

(b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and appropriate consideration of the issues; and

(c) is not bound by the rules of evidence; and

(d) may conduct itself in a way it considers appropriate, including, for example, by holding hearings; and

(e) must keep a record of its proceedings; and

(f) must comply with this division and procedural rules prescribed under a regulation.

714 Inquiry to be public unless board directs

(1) A board or inquiry must hold its inquiry in public.

(2) However, the board may, of its own initiative or on the application of a person represented at the inquiry—

(a) direct the inquiry, or part of the inquiry, be held in private; and

(b) give directions about who may be present.

(3) The board may give a direction under subsection (2) only if it is satisfied it is appropriate to do so.

715 Protection of members, representatives and witnesses

(1) A member of the board of inquiry has, in performing the member's functions, the same immunity and protection as a Supreme Court judge.

(2) A lawyer or other person appearing before the board for someone else has the same immunity and protection as a barrister appearing for a party in a proceeding in the Supreme Court.

(3) A person summoned to attend or appearing before the board as a witness has the same protection as a witness in a proceeding in the Supreme Court.

716 Board's powers for inquiry

(1) A board of inquiry, in conducting its inquiry, may if it considers it appropriate—

(a) act in the absence of a person given notice of the inquiry or some other reasonable notice; and

(b) receive evidence on oath or by statutory declaration; and

(c) adjourn the inquiry; and

(d) disregard a defect, error, omission or insufficiency in a document.

(2) The chairperson of the board may administer an oath to a person appearing as a witness before the inquiry.

Not authorised—indicative only

Not authorised—indicative only

717 Who may participate at inquiry

A person given notice of the inquiry may call, examine, cross-examine and re-examine witnesses, personally or by lawyer or another agent.

718 Witnesses

(1) The chairperson may, by a notice given to a person (a ***witness***), require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.

(2) A witness must—

(a) comply with the notice unless the witness has a reasonable excuse; or

(b) continue to attend as required by the chairperson unless the witness has a reasonable excuse.

Maximum penalty—200 penalty units.

(3) The chairperson must pay a witness the witness fee prescribed under a regulation or, if no fee is prescribed, the fee the chairperson considers to be reasonable.

(4) A witness must—

(a) take an oath, or make an affirmation, when required to do so by the chairperson; or

(b) answer a question or produce a document or thing when required to do so by the chairperson unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(5) It is a reasonable excuse for an individual if answering the question or producing the document or thing might tend to incriminate the individual or make the individual liable to a penalty.

719 Inspection by board of documents or things

(1) If a document or thing is produced at the inquiry, the board may—

(a) inspect the document or thing; and

(b) make copies of, photograph, or take extracts from, the document or thing if it is relevant to the inquiry.

(2) The board may also take possession of the document or thing, and keep it while it is necessary for the inquiry.

(3) While it keeps a document or thing, the board must allow a person otherwise entitled to possession of the document or thing to inspect, make copies of, photograph, or take extracts from, the document or thing, at a place and time the board considers to be reasonable.

Division 3 Miscellaneous provisions

720 Relationship with proceedings

A board of inquiry may start, continue or finish its proceedings, and a report may be prepared or given, despite a proceeding, unless a court or tribunal of competent jurisdiction orders otherwise.

721 False or misleading statements or document to board

(1) A person must not state anything to a board of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

(2) A person must not give a board of inquiry a document or thing the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

722 Contempt of board

A person must not—

(a) impede or obstruct a board of inquiry in the exercise of its powers; or

~~(a) insult a board of inquiry; or~~

(b) deliberately interrupt an inquiry of a board of inquiry; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where a board of inquiry is conducting its inquiry; or

(d) do anything that would be contempt of court if a board of inquiry were a judge acting judicially.

Maximum penalty—200 penalty units.

723 Change of board membership

A board of inquiry is not affected by a change in its membership.

Part 6 Restrictions on gas work

Division 1 Preliminary

724 Types of gas device

(1) A ***gas device (type A)*** is a device used or designed or intended for use for a purpose mentioned in subsection (2), and prescribed under a regulation.

(2) For subsection (1), the purposes are—

(a) for production of heat, light or power using fuel gas; or

(b) for refrigeration for which fuel gas is the fuel; or

(c) as a propellant.

(3) A ***gas device (type B)*** is any of the following—

(a) a device, or system of devices, other than a gas device (type A), that—

(i) is used or designed or intended for use for a purpose mentioned in subsection (2); or

(ii) is used or designed or intended for use in a manufacturing process if the device uses fuel gas; or

(iii) is a fuel gas refrigeration device;

(b) a gas flare;

(c) a thermal oxidiser~~.~~;

(d) a limited capacity biogas system.

Examples of gas devices (type B)—

- a fuel gas system for a motor vehicle or vessel
- a gas fired boiler at a major industrial plant

(4) To remove any doubt, it is declared that an industrial facility constructed for the purpose of producing liquified gas is not, of itself, a fuel gas refrigeration device.

Not authorised—indicative only

Not authorised—indicative only

(5) In this section—

gas flare means a device that—

(a) uses combustion to dispose of fuel gas; and

(b) is prescribed under a regulation.

limited capacity biogas system means a system of devices that produces, stores and uses not more than the amount of biogas prescribed by regulation.

thermal oxidiser means a device that uses a chemical reaction to reduce or remove gaseous pollutants from a mixture of gases that includes fuel gas, as part of an industrial process.

725 What is *gas work*

Gas work is the work of installing, removing, altering, repairing, servicing, testing or certifying a gas system.

Division 2 Restrictions

726 Gas work for which licence is required

(1) A person must not carry out gas work in relation to the following unless the person holds a gas work licence that allows the person to carry out the work—

(a) a gas device (type A);

(b) a fuel gas refrigeration device.

Maximum penalty—500 penalty units.

(2) A person must not direct a worker at a place to carry out gas work in relation to a gas device mentioned in subsection (1) unless the worker holds a gas work licence that allows the worker to carry out the work.

Maximum penalty—500 penalty units.

(3) A person must not direct a worker at a place to carry out gas work relating to a gas device mentioned in subsection (1) in a way that contravenes a relevant safety requirement.

Maximum penalty—500 penalty units.

(4) A person does not commit an offence against subsection (1) if the gas work is only the connection or disconnection of a gas cylinder to an existing gas fitting or gas device.

(5) This section does not apply to gas work carried out by a person under a safety management system for an operating plant in circumstances prescribed by regulation.

727 Gas work for which authorisation is required

(1) A person must not carry out gas work in relation to a gas device (type B) unless—

(a) a gas work authorisation has been issued for the device; and

(b) the person holds the authorisation, or is acting under the holder's authority; and

(c) the work complies with the authorisation.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) However, subsection (1) does not apply to a fuel gas refrigeration device.

(3) A person does not commit an offence under subsection (1) if—

(a) the gas work is carried out at an operating plant under a safety management system, other than a safety management system that is a generic SMS for that stage of the plant, and the person carrying out the work has

Not authorised—indicative only

Not authorised—indicative only

been assessed as competent to carry out the work under the system; or

(b) the gas work is gas work relating to pipes used to supply gas to a gas device (type B), and the person carrying out the work holds a gas work licence that allows the person to carry out that work; or

(c) the gas work is carried out at a facility that has, under the *Work Health and Safety Act 2011*, been classified as a major hazard facility, if—

(i) the work is carried out under a safety management system under that Act; and

(ii) the person carrying out the work has been assessed, under the safety management system, as competent to carry out the work.

(4) A person must not direct a worker at a place to carry out gas work relating to a gas device (type B) in a way that contravenes a relevant safety requirement.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Division 3 Gas work licences and authorisations

728 Who may apply

(1) An individual may apply to the chief inspector for a gas work licence to carry out gas work in relation to—

(a) a gas device (type A) or a type of gas device (type A); or

(b) a fuel gas refrigeration device or a type of fuel gas refrigeration device.

(2) An individual or a corporation may apply to the chief inspector for a gas work authorisation for a gas device (type B) or a type of gas device (type B), other than a fuel gas refrigeration device.

(3) If the applicant is an individual, the application may also seek an endorsement on any gas work licence issued that its holder also carries out work in relation to gases other than fuel gases.

Example—

an endorsement that the holder carries out work in relation to the use of hydrogen as transport fuel or the use of oxygen for medical purposes

728A Requirements for application

The application must be—

(a) in the approved form; and

(b) accompanied by the fee prescribed under a regulation.

728B Interim licence or authorisation

(1) This section applies if the chief inspector considers that the applicant has not adequately demonstrated that the applicant has the competencies and experience to hold the gas work licence or authorisation applied for.

(2) The chief inspector may grant the applicant an interim gas work licence or authorisation (the ***interim authority***).

(3) The chief inspector may impose conditions on the interim authority.

(4) The interim authority must be for a stated term of no more than 3 years.

(5) The chief inspector may extend the term of the interim authority to a term that ends no more than 1 year after the end of its term as stated in the authority.

Not authorised—indicative only

Not authorised—indicative only

(6) However, the chief inspector may extend the term more than once only if satisfied exceptional circumstances justify the further extension.

(7) If, within the term of the interim authority, the chief inspector considers the applicant has adequately demonstrated that the applicant has the competencies and experience to hold the gas work licence or authorisation applied for, the chief inspector must—

(a) grant the application; and

(b) cancel the interim authority.

(8) Otherwise, the chief inspector must refuse the application at the end of the term of the interim authority.

728C Deciding application

(1) Subject to section 728B, the chief inspector must decide whether to grant or refuse the application.

(2) However, the chief inspector must refuse the application if the applicant—

(a) does not have the qualifications or experience prescribed under a regulation for the type of gas work licence or authorisation applied for; or

(b) is not a suitable person to hold the gas work licence or authorisation.

(3) If the chief inspector decides to grant the application, the chief inspector may—

(a) limit the gas work licence or authorisation to a stated type of gas work; or

(b) impose conditions on the gas work licence or authorisation.

(5) If the chief inspector makes a decision as follows, the chief inspector must give the applicant an information notice about the decision—

(a) a decision to refuse the application;

(b) a decision to impose a condition on, or to limit, the gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant.

(6) In deciding whether the applicant is a suitable person to hold the gas work licence or authorisation, the chief inspector may have regard to the following—

(a) whether the applicant has been convicted of an indictable offence;

(b) whether the applicant has been convicted of an offence against the repealed *Gas Act 1965* or this Act;

(c) any disability or medical condition the applicant has that could put the applicant or the public at risk;

(d) any other issue relevant to the applicant's suitability to hold the gas work licence or authorisation.

728D Term of gas work licence or authorisation

(1) A gas work licence or authorisation may be issued for a stated term.

(2) If no term is stated, the gas work licence or authorisation continues in force unless it is cancelled, suspended or surrendered under this Act.

729 Offence not to comply with conditions

The holder of a gas work licence or authorisation must comply with its conditions.

Maximum penalty—250 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Not authorised—indicative only

Not authorised—indicative only

Part 6A Approval of gas devices

Division 1 Approval requirement

731AA Approval of gas devices for supply, installation and use

(1) A person must not supply a gas device (type A), or install or use any type of gas device, unless—

(a) the supply, installation or use has been approved by—

(i) the chief inspector; or

(ii) a person who holds a gas device approval authority for the gas device; and

(b) the gas device complies with any labelling requirements prescribed by regulation for the device.

Maximum penalty—200 penalty units.

Note—

This provision is an executive liability provision—see section 814.

(2) Also, a person must not supply a gas device (type B) unless the person gives the person to whom the device is supplied a written notice in the approved form stating that the installation and use of the device must be approved under subsection (1)(a).

Maximum penalty—200 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) An approval under subsection (1)(a) in relation to a gas device (type A) that has been given by a person who holds a gas device approval authority for the gas device, stops having effect only if the approval is cancelled or suspended by the person with the written consent of the chief inspector.

Division 2 Gas device approval authorities

731AB Who may apply

A person may apply to the chief inspector for a type of gas device approval authority ~~for a gas device~~prescribed by regulation.

731AC Requirements for application

The application must be in the approved form and comply with any requirement prescribed by regulation.

731AD Deciding application

(1) The chief inspector must decide whether to grant or refuse the application.

(2) However, the chief inspector must refuse the application if the chief inspector considers the applicant—

(a) does not have the qualifications or experience for approving a gas device prescribed by regulation; or

(b) is not a suitable person to hold the authority.

(3) In deciding whether the applicant is a suitable person to hold the authority, the chief inspector may have regard to the following matters—

(a) any noncompliance action taken against the applicant;

(b) whether the applicant has been convicted of an indictable offence or an offence against this Act;

(c) any other matter prescribed by regulation.

(4) The chief inspector may impose a condition on the authority when making a decision.

(5) If the chief inspector makes any of the following decisions, the chief inspector must give the applicant an information notice about the decision—

Not authorised—indicative only

Not authorised—indicative only

(a) a decision to refuse the application;

(b) a decision to impose a condition on the authority, other than a condition agreed to or requested by the applicant.

731AE Term of gas device approval authority

(1) A gas device approval authority takes effect—

(a) on a day stated in it; or

(b) if no day of effect is stated, on the day it is granted.

(2) The authority may be issued for a stated term and remains in force until the end of the term unless it is cancelled, suspended or surrendered under this Act.

(3) If no term is stated, the authority continues in force unless it is cancelled, suspended or surrendered under this Act.

731AF Conditions for gas device approval authority

A regulation may prescribe—

(a) a condition of a gas device approval authority that applies in addition to a condition imposed under section 731AD; and

(b) a requirement the chief inspector must comply with to vary or revoke a condition imposed under section 731AD.

731AG Offence not to comply with conditions

The holder of a gas device approval authority must comply with the conditions of the authority.

Maximum penalty—250 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Part 7 Miscellaneous provisions

731A Person may owe obligations in more than 1 capacity

A person on whom an obligation is imposed under this Act may be subject to more than 1 safety and health obligation.

731B Person not relieved of obligations

To remove doubt, it is declared that nothing in this Act that imposes an obligation on a person relieves another person of the person's obligations under this Act.

732 Increase in maximum penalties in circumstances of aggravation

(1) This section provides for the maximum penalty for an offence against a provision of this chapter if the act or omission that constitutes the offence caused a circumstance stated in subsection (3).

(2) If a circumstance stated in subsection (3) has happened, the maximum penalty stated in the subsection applies instead of the maximum penalty stated in another provision.

(3) For this section, the circumstances and maximum penalties are—

(a) for the death of, or grievous bodily harm to, more than 1 person—5,000 penalty units or 3 years imprisonment; or

(b) for the death of, or grievous bodily harm to, only 1 person—3,000 penalty units or 2 years imprisonment; or

(c) for the exposure of anyone to a substance likely to cause death or grievous bodily harm—1,000 penalty units or 1 year's imprisonment; or

(d) for bodily harm—1,000 penalty units or 1 year's imprisonment; or

Not authorised—indicative only

Not authorised—indicative only

(e) for serious property damage—1,000 penalty units or 6 months imprisonment.

732A Defences for certain offences

(1) This section provides defences in a proceeding against a person for a contravention of section 677, 688, 693, 699, 702, 703 or 704 (the ***relevant sections***).

(2) To the extent the contravention is a contravention of a particular safety requirement, it is a defence in the proceedings to prove—

(a) if a regulation was made about the way to ensure the safety requirement was to be met—the person followed the way prescribed in the regulation to ensure the safety requirement was met; or

(b) subject to paragraph (a), if a recognised standard was made stating a way or ways to ensure the safety requirement was to be met—

(i) that the person adopted and followed a stated way to ensure the safety requirement was met; or

(ii) that the person adopted and followed another way that ensured the safety requirement was met that was equal to or better than the stated way for ensuring the safety requirement was met; or

(c) if no regulation or recognised standard prescribes or states a way to discharge the person's obligation in relation to the safety requirement—that the person took reasonable precautions and exercised proper diligence to ensure the safety requirement was met.

(3) Also, it is a defence in a proceeding against a person for an offence against the relevant sections for the person to prove that the contravention was due to causes over which the person had no control.

(4) The Criminal Code, sections 23(1) and 24 do not apply in relation to a contravention of section 677, 688, 693, 699, 702, 703 or 704.

(5) In this section—

recognised standard means a recognised standard in force at the time of the contravention.

safety requirement means a requirement—

(a) a person must comply with to ensure the safety of another person; or

(b) that a person must not do an act or make an omission that affects the safety of another person.

732B Technical advisory committees

(1) The chief inspector may establish technical advisory committees to consider matters relating to safety, quality, and measurement.

Examples of matters for subsection (1)—

- proposed regulation exemptions from requirements relating to coal seam gas
- reviewing safety requirements
- developing relevant protocols or standards

(2) The chief inspector may decide the following for a technical advisory committee—

(a) its functions or terms of reference;

(b) its membership;

(c) who is to be its chairperson.

(3) The chief inspector may call for nominations for a technical advisory committee from relevant stakeholder organisations.

Not authorised—indicative only

Not authorised—indicative only

733A False or misleading labels or records

A person must not attach or cause to be attached a label or other record to a gas device or gas fitting if the label or record is false or misleading in a material particular.

Example of other record—

a compliance plate

Maximum penalty—200 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

734 Requirements for gas system installation

(1) If a safety requirement applies to a type of gas system, a person must not install a system of that type unless the installation complies with the safety requirement.

Maximum penalty—300 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) If a person installs all or part of a gas system, the person must, within the period or at the stage of installation prescribed under a regulation—

(a) give, to the person prescribed under a regulation, a certificate in the approved form about the installation and the gas system; and

(b) if a regulation prescribes a compliance plate for the installation—the compliance plate is attached in the way prescribed under the regulation.

Maximum penalty—300 penalty units.

Notes—

1 See also part 6, division 2 (Restrictions).

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

734A Safety obligations of gas system installer

(1) This section applies if—

(a) a person installs all or part of, or carries out gas work relating to, a gas system; and

(b) the person has a safety concern relating to the gas system.

(2) For subsection (1), the person has a ***safety concern*** relating to the gas system if the person knows or suspects, or ought reasonably to know or suspect that—

(a) the gas system does not or may not comply with all relevant safety requirements; or

(b) an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

(3) The person must give the owner, operator or proposed operator of the gas system notice of the noncompliance or risk, in the approved form.

Maximum penalty—300 penalty units.

(4) Subsections (5) and (6) apply if the safety concern relates to a risk mentioned in subsection (2)(b).

(5) The person must take appropriate measures to avoid, eliminate or minimise the risk.

Maximum penalty—300 penalty units.

Example of an appropriate measure—

The risk is fuel gas leaking from a gas device that forms part of the gas system. An appropriate measure is to isolate fuel gas supply to the device.

(6) The person must, by telephone, immediately report details of the following to an inspector and the operator of the

Not authorised—indicative only

Not authorised—indicative only

distribution system or fuel gas delivery network that supplies fuel gas to the gas system—

(a) the risk;

(b) the measures taken under subsection (5).

Maximum penalty—100 penalty units.

(7) In this section—

operator, of a distribution system or fuel gas delivery network, means the person responsible for the management and safe operation of the system or network.

734AA Safe use of gas devices

(1) A person who uses a gas device must take reasonable steps to ensure the gas device is used safely.

Maximum penalty—100 penalty units.

(2) A person does not contravene subsection (1) if the person uses a gas device in accordance with—

(a) if the gas device is a gas device (type A)—the manufacturer's instructions for the safe use of the gas device; or

(b) if the gas device is a gas device (type B)—

(i) an approval for use of the gas device under section 731AA(1)(a); and

(ii) the manufacturer's instructions for the safe use of the gas device.

734AB Register

The chief inspector must keep a register of details about gas work licences, gas work authorisations and gas device approval authorities.

734AC Access to register

(1) The chief inspector must—

~~(a) keep the register under section 734AB open for inspection by the public during office hours on business days at—~~

~~(i) RSHQ's head office; and~~

~~(ii) other places the chief inspector considers appropriate; and~~

(~~b~~a) allow a person to take extracts, free of charge, from the register under section 734AB; and

(~~c~~b) give a person who asks for a copy of all or part of a document or information held in the register the copy on payment of the fee prescribed under a regulation.

(2) The chief inspector may publish the register in the way the chief inspector considers appropriate.

(~~2~~3) This section does not apply to any part of the register that discloses the ~~residential address~~contact details of—

(a) an individual who is a holder of a gas work licence, gas work authorisation or gas device approval authority; or

(b) an individual authorised by a gas work authorisation holder to carry out gas work.

Not authorised—indicative only

Not authorised—indicative only

Chapter 10 Investigations and enforcement

Part 1 Investigations

Division 1 Inspectors and authorised officers

735 Appointment

(1) The CEO may appoint a public service officer as one of the following—

(a) the chief inspector, petroleum and gas;

(b) the deputy chief inspector, petroleum and gas;

(c) an inspector, petroleum and gas;

(d) an authorised officer (safety and health).

(2) The chief executive may appoint a public service officer as an authorised officer (general).

(3) However, the CEO may appoint a person under subsection (1), and the chief executive may appoint a person under subsection (2), only if satisfied the person is qualified for appointment and has the necessary expertise or experience.

736 Functions

(1) The functions of an inspector include each of the following—

(a) conducting audits, inspections and investigations to monitor and enforce compliance with safety management systems and—

(i) the provisions of this Act relating to safety; and

(ii) the provisions of the Geothermal Act; and

(iii) the provisions of the GHG storage Act;

(b) investigating incidents;

(c) responding to dangerous and emergency situations involving petroleum or fuel gas, a geothermal activity or GHG storage activity;

(d) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons;

(e) collecting information for this Act, the Geothermal Act or the GHG storage Act.

(2) The functions of an authorised officer (safety and health) include—

(a) conducting audits, investigations and inspections to monitor and enforce compliance with provisions of this Act, the Geothermal Act and the GHG storage Act relating to safety and health; and

(b) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons; and

(c) collecting information for this Act, the Geothermal Act and the GHG storage Act.

(3) The functions of an authorised officer (general) include—

(a) conducting audits, investigations and inspections to monitor and enforce compliance with provisions of this Act other than royalty provisions, the Geothermal Act and the GHG storage Act, other than the provisions mentioned in subsection (2); and

(b) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons; and

(c) collecting information for this Act, the Geothermal Act and the GHG storage Act.

(4) An inspector or authorised officer is declared to be a public official for the *Police Powers and Responsibilities Act 2000* if

Not authorised—indicative only

Not authorised—indicative only

the inspector or authorised officer is performing, or is proposing to perform, a function the inspector or authorised officer has under this section.

Note—

See the *Police Powers and Responsibilities Act 2000*, chapter 1, part 3, division 2 (Helping public officials).

737 Appointment conditions and limit on powers

(1) A person who is an inspector or authorised officer holds office on any conditions stated in—

(a) the person's instrument of appointment; or

(b) a signed notice given to the person.

(2) The instrument of appointment, a signed notice given to the person or a regulation may limit the person's functions or powers under this Act for the office.

(3) An inspector is also subject to the directions of the chief inspector in exercising the functions or powers.

(4) In this section—

signed notice means a notice signed by—

(a) for the chief inspector—the CEO; or

(b) for another inspector—the chief inspector; or

(c) for an authorised officer (safety and health)—the CEO; or

(d) for an authorised officer (general)—the chief executive.

738 Issue of identity card

(1) The CEO must issue an identity card to each person who is an inspector or authorised officer (safety and health).

(2) The chief executive must issue an identity card to each person who is an authorised officer (general).

(3) The identity card must—

(a) contain a recent photo of the person; and

(b) contain a copy of the person's signature; and

(c) identify the person as an inspector or authorised officer under this Act; and

(d) state an expiry date for the card.

(4) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

739 Production or display of identity card

(1) In exercising a power under this Act in relation to another person, an inspector or authorised officer must—

(a) produce ~~his~~the inspector's or ~~her~~authorised officer's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the inspector or authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), an inspector or authorised officer does not exercise a power in relation to a person only because the inspector or officer has entered a place as mentioned in section 743(1)(b) or (2).

740 When inspector or authorised officer ceases to hold office

(1) A person who is an inspector or authorised officer ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the person ceases to hold the office;

Not authorised—indicative only

Not authorised—indicative only

(c) the person's resignation under section 741 takes effect.

(2) Subsection (1) does not limit the ways the person may cease to hold the office.

(3) In this section—

condition of office means a condition on which the person holds office.

741 Resignation

(1) An inspector or authorised officer (safety and health) may resign by a signed notice given to the CEO.

(2) An authorised officer (general) may resign by a signed notice given to the chief executive.

742 Return of identity card

(1) A person who stops being an inspector or authorised officer (safety and health) must return the person's identity card to the CEO within 20 business days after the person stops being an inspector or authorised officer (safety and health) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person who stops being an authorised officer (general) must return the person's identity card to the chief executive within 20 business days after the person stops being an authorised officer (general) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Division 2 Powers of entry of inspectors and authorised officers

743 Power of entry—general

(1) An inspector or authorised officer may enter a place if—

(a) its occupier consents to the entry; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) the entry is authorised by a warrant; or

(d) it is a place of business to which this Act relates and the entry is made when the place is open for business or otherwise open for entry; or

(e) its occupier has been given a compliance direction and the entry is made, at a time or interval stated in the direction, to check compliance with the direction; or

(f) the inspector or authorised officer may enter the place under sections 744 to 746.

(2) For the purpose of asking the occupier of a place for consent to enter, an inspector or authorised officer may, without the occupier's consent or a warrant—

(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 inspector or authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) In this section—

place of business does not include a part of the place where a person resides.

744 Inspector's additional entry power for emergency or incident

(1) An inspector may enter a place if—

(a) the inspector reasonably suspects—

(i) an emergency exists, or may exist, involving petroleum or fuel gas, a geothermal activity or a GHG storage activity or suspected petroleum or

Not authorised—indicative only

Not authorised—indicative only

fuel gas, a geothermal activity or a GHG storage activity; and

(ii) the emergency is causing, or is likely to cause imminent and significant harm to persons or damage to property; or

(b) an incident is happening at the place and—

(i) the incident is causing harm to persons or property; and

(ii) it is reasonably necessary for the inspector to enter the place to investigate and manage the incident to the extent it relates to petroleum or fuel gas, a geothermal energy activity or a GHG stream.

(2) Before entering the place, the inspector must do, or make a reasonable attempt to do, each of the following things if the occupier of the place or a public official exercising functions or powers in relation to the place is present at the place—

(a) identify ~~himself or herself~~themself to the occupier or official in the way stated section 739;

(b) tell the occupier or official the purpose of the entry;

(c) seek the consent of the occupier or official to the entry;

(d) tell the occupier or official the inspector is permitted under this Act to enter the place without consent or a warrant;

(e) give the occupier or official an opportunity to allow the inspector immediate entry to the place without using force.

(3) However, the inspector need not comply with subsection (2) if—

(a) for entry under subsection (1)(a)—the inspector reasonably believes that immediate entry to the place is required to avoid imminent and significant harm to persons or property; or

(b) for entry under subsection (1)(b)—complying with the subsection may frustrate or otherwise prevent an investigation of the incident the subject of the entry.

(4) In this section—

public official means—

(a) a police officer; or

(b) a person who is appointed or authorised under a law to perform inspection, investigation or other enforcement functions under the law.

745 Inspector's additional entry power for operating plant

An inspector may, at any reasonable time, enter a place where an operating plant is situated, other than a part of the place where a person resides.

746 Authorised officer's additional entry power for petroleum authority, geothermal exploration permit or GHG authority

An authorised officer may enter the area of a petroleum authority, geothermal tenure or GHG authority at any reasonable time, other than a part of the area where a person resides.

Division 3 Procedure for entry

747 Entry with consent

(1) This section applies if an inspector or authorised officer intends to ask an occupier of a place to consent to the inspector or authorised officer or another inspector or authorised officer entering the place under section 743(1)(a).

(2) Before asking for the consent, the inspector or authorised officer must tell the occupier—

Not authorised—indicative only

Not authorised—indicative only

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the inspector or authorised officer may ask the occupier to sign an acknowledgement of the consent.

(4) The acknowledgement must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the inspector or authorised officer consent to enter the place and exercise powers under this division; and

(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgement, the inspector or authorised officer must immediately give a copy to the occupier.

(6) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

748 Application for warrant

(1) An inspector or authorised officer may apply to a magistrate for a warrant for a place.

(2) The inspector or authorised officer must prepare a written application that states the grounds on which the warrant is sought.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the inspector or authorised officer 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.

749 Issue of warrant

(1) The magistrate may issue the warrant for the place 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 an offence against this Act; and

(b) the evidence is at the place or, within the next 7 days, will be at the place.

(2) The warrant must state—

(a) the place to which the warrant applies; and

(b) that a stated inspector or authorised officer may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry to the place; and

(ii) exercise the inspector's or authorised officer's powers under this part; and

(c) particulars of the offence that the magistrate considers appropriate in the circumstances; and

(d) the name of the person suspected of having committed the offence, unless the name is unknown or the magistrate considers it inappropriate to state the name; and

(e) the evidence that may be seized under the warrant; and

Not authorised—indicative only

Not authorised—indicative only

(f) the hours of the day or night when the place may be entered; and

(g) the magistrate's name; and

(h) the date and time of the warrant's issue; and

(i) the date, within 14 days after the warrant's issue, the warrant ends.

750 Application by electronic communication and duplicate warrant

(1) An application under section 749 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector or authorised officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the inspector's or authorised officer's remote location.

(2) The application—

(a) may not be made before the inspector or authorised officer prepares the written application under section 748(2); but

(b) may be made before the written application is sworn.

(3) The magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector or authorised officer, for example, by sending a copy by fax or email, the magistrate must immediately give a

copy of the warrant to the inspector or authorised officer; or

(b) otherwise—

(i) the magistrate must tell the inspector or authorised officer the date and time the warrant is issued and the other terms of the warrant; and

(ii) the inspector or authorised officer must complete a form of warrant, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(6) The inspector or authorised officer must, at the first reasonable opportunity, send the magistrate—

(a) the written application complying with section 748(2) and (3); and

(b) if the inspector or authorised officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.

(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (5), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

Not authorised—indicative only

Not authorised—indicative only

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(9) This section does not limit section 748.

(10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

751 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 748, 749 or 750, unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

warrant includes a duplicate warrant mentioned in section 750(5).

752 Warrants—procedure before entry

(1) This section applies if an inspector or authorised officer named in a warrant issued under this division for a place is intending to enter the place under the warrant.

(2) Before entering the place, the inspector or authorised officer must do or make a reasonable attempt to do the following things—

(a) identify ~~himself or herself~~themself to a person present at the place who is an occupier of the place, in the way stated in section 739;

(b) give the person a copy of the warrant;

(c) tell the person the inspector or authorised officer is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the inspector or authorised officer immediate entry to the place without using force.

(3) However, the inspector or authorised officer need not comply with subsection (2) if the inspector or authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

(4) In this section—

warrant includes a duplicate warrant mentioned in section 750(5).

Division 4 Powers after entering a place

753 Application of div 4

(1) This division applies if an inspector or authorised officer has, under division 2, entered a place.

(2) However, if, under section 743(2), an inspector or authorised officer enters a place to ask the occupier's consent to enter premises, this division applies to the inspector or authorised officer only if the consent is given or the entry is otherwise authorised.

~~754 General powers~~

~~The inspector or authorised officer may do all or any of the following —~~

~~(a) search any part of the place;~~

~~(b) inspect, measure, test, photograph or film any part of the place or anything at the place;~~

~~(c) take a thing, or a sample of or from a thing, at the place for analysis or testing;~~

~~(d) copy a document at the place;~~

Not authorised—indicative only

Not authorised—indicative only

~~(e) take into or onto the place any person, equipment and materials the inspector or authorised officer reasonably requires for the exercise of a power under this division.~~

~~755 Power to require reasonable help~~

~~(1) The inspector or authorised officer may require a person at the place or anywhere else, to give the inspector or authorised officer reasonable help, including, for example, by producing a document or giving information, to—~~

~~(a) exercise a power under this division; or~~

~~(b) work out whether this Act is being complied with.~~

~~(2) When making the requirement, the inspector or authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.~~

~~756 Failure to comply with help requirement~~

~~(1) A person of whom a requirement under section 755 has been made must comply with the requirement unless the person has a reasonable excuse.~~

~~Maximum penalty—500 penalty units.~~

~~(2) It is a reasonable excuse for an individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.~~

~~(3) However, subsection (2) does not apply if the requirement is to produce a document required to be held or kept by the individual under this Act.~~

754 General powers

(1) This section applies to—

(a) an inspector for performing the functions of the inspector under section 736(1); or

(b) an authorised officer for performing the functions of the authorised officer under section 736(2) or (3).

(2) The inspector or authorised officer may—

(a) search any part of the place; or

(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

(c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or

(d) copy a document at the place; or

(e) take into or onto the place any persons, equipment and materials the inspector or authorised officer requires for exercising a power under this division; or

(f) require a person at the place, to give the inspector or authorised officer reasonable help to exercise the inspector's or authorised officer's powers under any of paragraphs (a) to (e); or

(g) require a person at the place, to answer questions by the inspector or authorised officer to help the inspector or authorised officer ascertain whether this Act is being or has been complied with, or for the purpose of conducting an investigation under this Act.

(3) When making a requirement mentioned in subsection (2)(f) or (g), the inspector or authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

755 Failure to help inspector or authorised officer

A person required to give reasonable help under section 754(2)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Not authorised—indicative only

Not authorised—indicative only

756 Failure to answer questions

(1) A person of whom a requirement is made under section 754(2)(g) must not fail to comply with a requirement to answer a question unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) It is a reasonable excuse for an individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual or make the individual liable to a penalty.

(3) However, subsection (2) does not apply if the requirement relates to an incident.

Division 5 Power to obtain information

757 Power to require personal details

(1) This section applies if an inspector or authorised officer—

(a) finds a person committing an offence against this Act; or

(b) finds a person in circumstances that lead the inspector or authorised officer to reasonably suspect the person has just committed an offence against this Act; or

(c) has information that leads the inspector or authorised officer to reasonably suspect a person has just committed an offence against this Act.

(2) The inspector or authorised officer may require the person to state the person's name and residential address.

(3) The inspector or authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—

(a) be in possession of evidence of the correctness of the stated name or address; or

(b) otherwise be able to give the evidence.

(4) When making a requirement under this section, the inspector or authorised officer must give the person an offence warning for the requirement.

(5) In this section—

offence warning, for a requirement by an inspector or authorised officer, means a warning that, without a reasonable excuse, it is an offence for the person of whom the requirement is made not to comply with the direction or requirement.

reasonably suspect means suspect on grounds that are reasonable in the circumstances.

757A Offence to contravene personal details requirement

(1) A person of whom a requirement is made under section 757 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence in relation to which the requirement under section 757 was made.

~~757 Power to require name and address~~

~~(1) This section applies if—~~

~~(a) an inspector or authorised officer finds a person committing an offence against this Act; or~~

~~(b) an inspector or authorised officer finds a person in circumstances that lead, or has information that leads, the inspector or authorised officer to reasonably believe the person has just committed an offence against this Act.~~

~~(2) The inspector or authorised officer may require the person to state the person's name and residential address.~~

Not authorised—indicative only

Not authorised—indicative only

~~(3) When making the requirement, the inspector or authorised officer must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.~~

~~(4) The inspector or authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the inspector or authorised officer reasonably suspects the stated name or address to be false.~~

758 Power to require production of documents

(1) An inspector or authorised officer may require a person to make available for inspection by an inspector or authorised officer, or produce to the inspector or authorised officer for inspection, at a reasonable time and place nominated by the inspector or authorised officer—

(a) a document given to the person under this Act; or

(b) a document required to be held, kept or made by the person under this Act.

(2) The inspector or authorised officer may ask the person to give the inspector or authorised officer a copy of the document within a reasonable period.

(3) If the inspector or authorised officer asks for and is given a copy of a document mentioned in subsection (1)(b), the inspector or officer may require the person responsible for keeping the document to certify the copy as a true copy of the document.

(4) If a request under subsection (2) is not complied with within a reasonable period, the inspector or authorised officer may—

(a) take the document to copy it; and

(b) require the person responsible for keeping the document to certify the copy as a true copy of the document.

(5) The inspector or authorised officer must return the document to the person as soon as practicable after copying it.

(6) However, if a requirement is made of a person under subsection (3) or (4), the inspector or authorised officer may keep the document until the person complies with the requirement.

759 Failure to produce document

(1) A person of whom a requirement under section 758(1) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) It is a reasonable excuse for an individual not to comply with a document production requirement if complying with the requirement might tend to incriminate the individual.

(3) However, subsection (2) does not apply if the requirement is to produce a document required to be held or kept by the person under this Act.

760 Failure to certify copy of document

A person of whom a requirement under section 758(3) or (4)(b) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

~~761 Power to require information~~

~~(1) This section applies if an inspector or authorised officer reasonably believes—~~

~~(a) an offence against this Act has been committed; and~~

~~(b) a person may be able to give information about the offence.~~

~~(2) The inspector or authorised officer may, by a notice given to the person, require the person to give information about the~~

Not authorised—indicative only

Not authorised—indicative only

~~offence to the inspector or authorised officer at a stated reasonable place and at a stated reasonable time.~~

~~762 Failure to comply with information requirement~~

~~(1) A person to whom a notice under section 761 has been given must comply with the notice unless the person has a reasonable excuse.~~

~~Maximum penalty—500 penalty units.~~

~~(2) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.~~

761 Power to require attendance of persons before inspector or authorised officer to answer questions

(1) An inspector or authorised officer may require a person to attend before the inspector or authorised officer and to answer questions—

(a) relevant to the discharge of the person's safety and health obligations under this Act; or

(b) on safety and health matters relevant to activities involving petroleum or fuel gas; or

(c) to ascertain whether this Act is being complied with; or

(d) relevant to any action carried out by the inspector or authorised officer under this Act.

(2) A requirement made of a person under this section to attend before an inspector or authorised officer must—

(a) be made by notice given to the person; and

(b) state a reasonable time and place for the person's attendance.

(3) When making a requirement under this section, the inspector or authorised officer must warn the person it is an offence to

fail to comply with the requirement unless the person has a reasonable excuse.

762 Failure to comply with requirement about attendance

(1) A person of whom a requirement is made under section 761 must not, unless the person has a reasonable excuse—

(a) fail to attend before the inspector or authorised officer at the time and place stated in the notice; or

(b) when attending before the inspector or authorised officer fail to comply with a requirement to answer a question.

Maximum penalty—500 penalty units.

(2) It is a reasonable excuse for an individual not to comply with a requirement to answer a question if complying with the requirement might tend to incriminate the individual or make the individual liable to a penalty.

(3) However, subsection (2) does not apply if the requirement relates to an incident.

762A Use of particular evidence in proceedings

(1) Subsection (2) applies in relation to an answer given by an individual in response to a requirement under section 754(2)(g) or 761(1).

(2) Neither the answer nor any information, document or other thing obtained as a direct or indirect result of the answer is admissible in any proceeding against the individual, other than a proceeding in which the falsity or misleading nature of the answer is relevant.

(3) If a document, produced in response to a requirement under section 754(2)(f), is the personal property of an individual of whom the requirement is made and the document might incriminate the individual or make the individual liable to a penalty—

Not authorised—indicative only

Not authorised—indicative only

(a) the document is admissible in a proceeding against the individual for an offence under this Act; but

(b) neither the document nor anything obtained as a direct or indirect result of the individual producing the document is admissible in any other proceeding against the individual for an offence.

Division 6 Seizure and forfeiture

Subdivision 1 Seizure powers

763 Power to seize things

(1) An inspector or authorised officer who, under this part, enters a place may seize a thing at the place if—

(a) the inspector or authorised officer reasonably believes the thing—

(i) is, or may be, evidence of an offence against this Act; or

(ii) may be required to investigate an incident; and

(b) for an entry made with the occupier's consent—seizure of the thing is consistent with the purpose of entry as told to the occupier.

(2) An inspector or authorised officer who enters a place under a warrant may seize the evidence for which the warrant was issued.

(3) An inspector or authorised officer may also seize anything else at a place mentioned in subsection (1) or (2) if the inspector or officer reasonably believes—

(a) the thing is, or may be, evidence of an offence against this Act; or

(b) the seizure is necessary to prevent the thing being destroyed, hidden or lost or used to continue or repeat the offence; or

(c) the thing has just been used in committing an offence against this Act.

764 Seizure of thing subject to security

(1) An inspector or authorised officer may, under this Act, seize a thing or exercise powers in relation to it despite a lien or other security over it claimed by another person.

(2) However, the seizure does not affect the person's claim to the lien or other security against a person other than the inspector or authorised officer or a person acting for the inspector or authorised officer.

Subdivision 2 Powers to support seizure

765 Directions to person in control

(1) To enable a thing to be seized under this part, an inspector or authorised officer may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

(2) The requirement—

(a) must be made by notice; or

(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by a notice in the approved form as soon as practicable.

Not authorised—indicative only

Not authorised—indicative only

766 Failure to comply with seizure requirement

A person of whom a requirement under section 765 has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

767 General powers for seized things

Having seized a thing under this part, an inspector or authorised officer may do 1 or more of the following—

(a) move it from the place where it was seized;

(b) leave it at the place but take reasonable action to restrict access to it;

Examples of restricting access to a thing—

1 brand, mark, seal, tag or otherwise identify it to show access to it is restricted

2 sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted

(c) for equipment—make it inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

768 Offence to unlawfully interfere with seized thing

(1) A person, other than an inspector or authorised officer, must not do, or attempt to do, any of the following acts in relation to a thing seized under this part unless the person has a reasonable excuse—

(a) unlawfully interfere with the thing or something done under section 767(b) to restrict access to it;

(b) enter, or be at, the place where the thing is being kept;

(c) move the thing from the place where it is being kept.

Maximum penalty—500 penalty units.

(2) It is a reasonable excuse if the act is authorised by an inspector or authorised officer.

769 Testing seized things

(1) An inspector may carry out, or arrange to have carried out, scientific or other tests on a thing seized under this Act to investigate an incident.

(2) The testing may have the effect of destroying the thing if—

(a) the thing is a sample of petroleum or fuel gas, geothermal energy, or a part of a GHG stream; or

(b) for another thing—

(i) its destruction is necessary for the carrying out of the test; and

(ii) there is no other reasonable course available to achieve the purpose of the test; and

(iii) subsections (3) to (6) are complied with.

(3) For subsection (2)(b)(iii), the chief inspector must give any owner of the thing of whom the chief inspector is aware a notice of the proposed test before it is carried out.

(4) The notice must state—

(a) a reasonable period for the owner to lodge submissions as to why the thing should be preserved; and

(b) where the submissions may be lodged.

(5) Before destroying the thing the chief inspector must consider any submissions lodged by the owner during the stated period.

(6) In this section—

Not authorised—indicative only

Not authorised—indicative only

geothermal energy means energy in the form of heat produced from beneath the surface of solid earth.

Subdivision 3 Safeguards for seized property

770 Receipt and information notice for seized things

(1) As soon as possible after an inspector or authorised officer seizes a thing, the inspector or authorised officer must give the person from whom 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 make the seizure.

(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector or authorised officer must leave the receipt at the place where it was seized, in a reasonably secure way and in a conspicuous position.

(3) The information notice and receipt may—

(a) be given in the same document; and

(b) relate to more than 1 seized thing.

(4) This section does not apply to a thing if it is impractical or would be unreasonable to give the receipt, given the thing's nature, condition and value.

771 Access to seized things

(1) Until a thing seized under this Act is forfeited or returned, an inspector or authorised officer must allow its owner to inspect it and, 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.

772 Return of seized things

(1) This section applies if a seized thing has some intrinsic value and is not forfeited.

(2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply for its return—

(a) if the thing was seized by an authorised officer (safety and health)—to the chief inspector; or

(b) if the thing was seized by an authorised officer (general)—to the chief executive.

(3) Within 30 days after receiving the application, the chief inspector or chief executive must—

(a) if the chief inspector or chief executive is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice for the decision; or

(b) otherwise—return the thing to the owner.

(4) If, at any time after the thing was seized, the chief inspector or chief executive stops being satisfied there are reasonable grounds for retaining it, the chief inspector or chief executive must return it to its owner.

(5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the 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—

(i) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that is likely to be started; or

(ii) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that has been started but not completed; or

Not authorised—indicative only

Not authorised—indicative only

(iii) 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.

(6) In this section—

examine includes analyse, test, measure, weigh, grade, gauge and identify.

Subdivision 4 Forfeiture

773 Forfeiture of seized things

(1) The CEO or the chief inspector may decide to forfeit a thing seized under this Act if the inspector or authorised officer (safety and health) (the ***seizing officer***) who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act; or

(d) reasonably considers it is dangerous to the extent that, to ensure safety, it must be destroyed; or

(e) reasonably considers it has no intrinsic value and use.

(2) The chief executive may decide to forfeit a thing seized under this Act if the authorised officer (general) (also the ***seizing officer***) who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act; or

(d) reasonably considers it is dangerous to the extent that, to ensure safety, it must be destroyed; or

(e) reasonably considers it has no intrinsic value and use.

(3) For subsections (1) and (2)—

(a) the period over which the efforts or enquires are made must be at least 5 business days; and

(b) the seizing officer is not required to—

(i) make efforts if it would be unreasonable to make efforts to return the thing to its owner; or

(ii) make inquiries if it would be unreasonable to make inquiries to find the owner.

(4) If the CEO or chief inspector decides under subsection (1)(c), (d) or (e) to forfeit a thing, or the chief executive decides under subsection (2)(c), (d) or (e) to forfeit a thing, the former owner of the thing immediately before the forfeiture must be given an information notice about the decision.

(5) Subsection (4) does not apply if—

(a) the seizing officer can not find the owner, after making reasonable inquiries; or

(b) it is impracticable or would be unreasonable to give the information notice.

(6) Regard must be had to a thing's nature, condition and value—

(a) in deciding—

(i) whether it is reasonable to make inquiries or efforts; and

(ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or

Not authorised—indicative only

Not authorised—indicative only

(b) in deciding whether it would be unreasonable to give the information notice.

774 Dealing with forfeited things

(1) On the forfeiture of a thing to the State, it becomes the State's property.

Note—

See also section 841.

(2) The CEO or chief inspector, or the chief executive, may deal with the thing for the State in any way the CEO or chief inspector, or the chief executive, considers appropriate, including, for example, by destroying it or giving it away.

(3) However, the CEO or chief inspector, or the chief executive, must not deal with the thing in a way that could prejudice the outcome of an appeal or review under this Act of which the CEO or chief inspector, or the chief executive, is aware.

Division 7 Notice of damage caused when exercising power

775 Application of div 7

(1) This division applies if—

(a) an inspector or authorised officer damages something when exercising, or purporting to exercise, a power; or

(b) a person helping an inspector or authorised officer to exercise, or purporting to exercise, the inspector's or authorised officer's powers damages something.

(2) However, this division does not apply to damage the inspector or authorised officer reasonably considers is trivial or if the inspector or officer reasonably believes—

(a) there is no-one apparently in possession of the thing; or

(b) the thing has been abandoned.

776 Requirement to give notice

(1) The inspector or authorised officer must immediately give a notice of the damage to the person who appears to the inspector or officer to be the owner or person in possession or control of the thing.

(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector or officer 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.

(3) The inspector or officer may delay complying with subsection (1) or (2) if the inspector or officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the inspector or officer.

(4) The delay may be only for so long as the inspector or officer continues to have the reasonable suspicion and remains in the vicinity of the place.

777 Content of notice

(1) A notice of damage under section 776 must state particulars of the damage.

(2) If the inspector or authorised officer believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the inspector or officer or a person helping the inspector or officer, the notice may state that belief.

Division 8 Miscellaneous provisions

778 Compensation for damage because of exercise of powers

(1) A person may claim compensation from the State if the person incurs a cost, damage or loss because of the exercise, or

Not authorised—indicative only

Not authorised—indicative only

purported exercise, of a power under this part by or for an inspector or authorised officer.

(2) Without limiting subsection (1), compensation may be claimed for a cost, damage or loss incurred because of the compliance with a requirement made of the person under this part.

(3) The compensation may be claimed and ordered in a proceeding—

(a) brought in a court of competent jurisdiction; or

(b) for an offence against this Act to which the claim relates.

(4) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(5) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.

(6) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

779 Compliance with safety management system

(1) An inspector or authorised officer who exercises a power under this part in relation to an operating plant must comply with each relevant safety requirement under the safety management system for the plant.

(2) Subsection (1) does not apply if the power is exercised with the chief inspector's written approval.

(3) A failure to comply with this subsection (1) does not invalidate or otherwise affect the exercise of the power.

Part 2 Directions and enforcement

Division 1 Direction to remedy contravention

780 Power to give compliance direction

(1) This section applies if an inspector or authorised officer reasonably believes a person—

(a) has contravened, or is contravening, any of the following (an ***enforced instrument***)—

(i) this Act;

(ii) the Geothermal Act;

(iii) the GHG storage Act;

(iv) a mandatory provision of the land access code; or

(b) is involved in an activity that is likely to result in a contravention of an enforced instrument.

(2) The inspector or authorised officer may give the person a written direction (a ***compliance direction***) to take steps reasonably necessary to remedy the contravention or avoid the likely contravention.

(3) The direction may also state—

(a) the steps the inspector or authorised officer reasonably believes are necessary to remedy the contravention or avoid the likely contravention; or

(b) that the person must notify the inspector or authorised officer when the person has complied with the compliance direction; or

(c) that an inspector or authorised officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the occupier to check compliance with the direction.

Not authorised—indicative only

Not authorised—indicative only

781 Requirements for giving compliance direction

(1) A compliance direction must state each of the following—

(a) that the inspector or authorised officer giving it believes the person given the direction—

(i) has contravened, or is contravening, this Act, the Geothermal Act or the GHG storage Act; or

(ii) is involved in an activity that is likely to result in a contravention of this Act, the Geothermal Act or the GHG storage Act;

(b) the provision the inspector or authorised officer believes is being, has been, or is likely to be, contravened;

(c) the reasons for the belief;

(d) that the person must take steps reasonably necessary to remedy the contravention, or avoid the likely contravention, within a stated reasonable period.

(2) The direction must include, or be accompanied by, an information notice about the decisions to give the direction and to fix the period.

(3) The direction may be given orally if—

(a) for any reason it is not practicable to give the direction in writing; and

(b) the inspector or authorised officer giving it warns the person it is an offence not to comply with the direction.

(4) If the direction is given orally, the inspector or authorised officer must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

782 Failure to comply with compliance direction

(1) A person to whom a compliance direction has been given must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) If the direction states steps the person may take to remedy the contravention, or avoid the likely contravention, the subject of the direction, the person is taken to have complied with the direction if all the steps have been taken.

(3) Subsection (2) does not prevent the person from complying with the direction in another way.

Division 2 Direction to remedy dangerous situation

783 Power to give dangerous situation direction

(1) This section applies if an inspector reasonably believes—

(a) a dangerous situation exists; and

(b) a person is in a position to take steps to prevent, remove or minimise the risk.

(2) The inspector may give the person a written direction (a ***dangerous situation direction***) to take steps reasonably necessary to prevent, remove or minimise the risk within a stated reasonable period.

(3) The direction may also state—

(a) the steps the inspector reasonably believes are necessary to prevent, remove or minimise the risk; or

(b) that the person must notify the inspector or authorised officer when the person has complied with the dangerous situation direction; or

(c) that an inspector or an authorised officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the occupier to check compliance with the direction.

Not authorised—indicative only

Not authorised—indicative only

784 Requirements for giving dangerous situation direction

(1) A dangerous situation direction must state—

(a) that the inspector giving the direction believes—

(i) a stated dangerous situation exists; and

(ii) the person given the direction is in a position to take steps to prevent, remove or minimise the risk; and

(b) the reasons for the belief; and

(c) that the person must take steps reasonably necessary to prevent, remove or minimise the risk within a stated reasonable period.

(2) The direction must include, or be accompanied by, an information notice about the decisions to give the direction and to fix the period.

(3) The direction may be given orally if—

(a) for any reason it is not practicable to give the direction in writing; and

(b) the inspector warns the person it is an offence not to comply with the direction.

(4) If a dangerous situation direction is given orally, the inspector who gave it must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

785 Failure to comply with dangerous situation direction

A person to whom a dangerous situation direction has been given must comply with the direction.

Maximum penalty—1,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Division 3 Enforcement of directions

786 Reinspection or re-attendance to check compliance

(1) If a compliance or dangerous situation direction has been given, an inspector or authorised officer may, if the inspector or officer considers it reasonably necessary, carry out a reinspection or re-attendance to check compliance with the direction.

(2) The reinspection or re-attendance must be carried out at a reasonable time.

787 Action to ensure compliance

If a person to whom a compliance or dangerous situation direction has been given does not comply with the direction, an inspector or authorised officer may take necessary and reasonable action to ensure the direction is complied with.

788 Recovery of enforcement costs

(1) The State may recover from the responsible person as a debt any reasonable costs incurred in—

(a) carrying out a re-attendance under section 786; or

(b) taking action under section 787.

(2) In this section—

responsible person means the person to whom the relevant direction was given.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Noncompliance procedure for all authorities under Act

Subdivision 1 Introduction

789 Operation of div 4

(1) This division provides a process for noncompliance action against the holder of any authority under this Act mentioned in section 18.

(2) The ***relevant official*** for taking the action is—

(a) for a petroleum authority—the Minister; or

(b) for a gas work licence, gas work authorisation or gas device approval authority—the chief inspector.

(3) The power to take noncompliance action under this division does not limit a power as follows (the ***other power***)—

(a) the power under chapter 5, part 1 to require new or additional security;

(b) a power under another provision of this Act to amend the authority;

(c) the power to give a dangerous situation or compliance direction.

(4) The other power does not limit the power to take noncompliance action.

(5) Noncompliance action may be taken at the same time as the other power is exercised.

Subdivision 2 Noncompliance action

790 Types of noncompliance action that may be taken

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

(a) amending the authority by doing all or any of the following—

(i) reducing the term of the authority;

(ii) for a petroleum authority—reducing its area;

Example of a possible reduction—

An authority to prospect holder has not, in contravention of section 78, carried out work required under the work program for the authority. Noncompliance action may include amending the authority to reduce its area to reflect the work not carried out.

(iii) amending a condition of the authority;

(iv) imposing a new condition;

(b) requiring the authority holder to relinquish a stated part of the area of the authority on or before a stated time;

(c) cancelling the authority, immediately or on a stated day;

(d) if the authority is a gas work licence or authorisation—suspending it for a period, either under subdivision 3 or by a notice under subdivision 4;

(e) if the authority is a gas device approval authority—suspending it for a period by a notice under subdivision 4;

(f) if the authority is a petroleum tenure—

(i) withdrawing, from a stated day, the approval of its work program or development plan; and

Note—

See section 796 (Notice of proposed noncompliance action other than immediate suspension).

Not authorised—indicative only

Not authorised—indicative only

(ii) directing its holder to, on or before that day, lodge the following program or plan so that the Minister may decide whether to approve the program or plan—

(A) for an authority to prospect—a proposed later work program that complies with the later work program requirements;

(B) for a petroleum lease—a proposed later development plan that complies with the later development plan requirements;

(g) requiring the authority holder to pay the State a penalty of an amount no more than the monetary value of 2,000 penalty units.

(2) However, a requirement under subsection (1)(g) may not be made if the event for which the noncompliance action is taken is an event mentioned in section 791(2)(g).

(3) A condition or amendment under subsection (1) may restrict the authorised activities for the authority.

(4) If, under subsection (1)(c), the authority is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the authority until the cancellation.

(5) Noncompliance action may be taken despite the mandatory conditions for the authority.

(6) The power under subsection (1) to amend a gas work licence or authorisation may be exercised even if it is suspended.

791 When noncompliance action may be taken

(1) Noncompliance action may be taken if—

(a) an event mentioned in subsection (2) or (3) has happened; and

(b) the procedure under subdivision 3 or 4 for taking the action has been followed; and

(c) the authority for which the noncompliance action is taken relates to the event for which the action is taken.

(2) For subsection (1), the event is that the holder—

(a) obtained the authority because of a materially false or misleading representation or declaration, made orally or in writing; or

(b) has failed to comply with this Act, a direction given under this Act or the authority; or

(c) did not pay an amount under this Act by the day it became owing; or

(d) has used any land in the area of the authority for an activity that—

(i) is not an authorised activity for the authority or that, under any of the following, can not be carried out on the land—

(A) the Geothermal Act, chapter 5;

(B) the GHG storage Act, chapter 4;

(C) the Mineral Resources Act, section 3A or chapter 9; and

(ii) the holder can not otherwise lawfully carry out; or

(e) has used the authority for a purpose other than for a purpose for which it was granted; or

(f) has carried out, or purported to carry out, work under the authority for which the authority was not granted; or

(g) is the subject of a notice given to the Minister by the chief executive of the department administering the Water Act, stating that the holder has been convicted of an offence against the Water Act, chapter 3.

(3) Also, if the authority is a petroleum authority, it is an event for subsection (1) if the holder is not, or has ceased to be, an eligible person.

Not authorised—indicative only

Not authorised—indicative only

792 Provision for divided petroleum tenures

(1) If, under chapter 2, a petroleum tenure (the ***original tenure***) is divided into other petroleum tenures (the ***new tenures***), any noncompliance action started, or that could have been taken, against the original tenure holder may be continued or started against any holder of any of the new tenures.

(2) However, the procedure under subdivision 4 for taking the noncompliance action must be followed.

Subdivision 3 Procedure for immediate suspension of gas work licence or authorisation

793 Application of sdiv 3

This subdivision applies only if the authority is a gas work licence or authorisation.

794 Immediate suspension

(1) The chief inspector may, by a notice (a ***suspension notice***) to the holder, immediately suspend the authority if the chief inspector reasonably believes—

(a) a ground exists to suspend or cancel the authority; and

(b) it is imperative to immediately suspend the authority to control or prevent a danger to the public.

(2) The suspension notice must—

(a) state each of the following—

(i) that the authority is suspended immediately;

(ii) the grounds for the suspension;

(iii) the facts and circumstances forming the basis for the grounds;

(iv) the suspension period;

(v) that the holder may lodge submissions, to show why the suspension should end; and

(b) include, or be accompanied by, a notice about the decisions to give the notice and to fix the suspension period.

(3) The suspension period ends—

(a) if the chief inspector takes a noncompliance action in relation to the authority under section 798—when the noncompliance action is finally disposed of; or

(b) otherwise—within the period stated in the suspension notice that is not more than 40 business days.

(4) The suspension has effect immediately after the holder is given the suspension notice.

(5) The authority is ineffective during the suspension period.

Subdivision 4 Procedure for other noncompliance action

795 Application of sdiv 4

This subdivision applies if the relevant official proposes to take noncompliance action, other than immediate suspension under section 794.

796 Notice of proposed noncompliance action other than immediate suspension

(1) The relevant official must give the authority holder a notice stating each of the following—

(a) that the relevant official proposes to take noncompliance action against the holder;

(b) the types of noncompliance action that may be taken against the holder and the type likely to be taken;

Not authorised—indicative only

Not authorised—indicative only

(c) the grounds for taking noncompliance action against the holder;

(d) the facts and circumstances that are the basis for the grounds;

(e) that the holder may, within a stated period, lodge submissions about the proposal to take noncompliance action.

(2) The notice may state any of the following—

(a) if the noncompliance action is likely to include amending the authority—the likely amendment;

(b) if the authority is a petroleum authority—the amount of any likely reduction of the area of the authority;

(c) if the proposed noncompliance action is to suspend the authority—the likely suspension period.

(3) A suspension period may be fixed by reference to a stated event.

(4) The stated period must be at least 20 business days after the holder is given the notice.

797 Considering submissions

(1) The relevant official must consider any submissions lodged by the holder, during the period stated in the notice given under section 796.

(2) If the relevant official decides not to take noncompliance action the relevant official must promptly give the holder a notice of the decision.

798 Decision on proposed noncompliance action

(1) If, after complying with section 797, the relevant official still believes a ground exists to take noncompliance action, the official may decide to take noncompliance action in relation to

the authority that relates to a ground stated in the notice given under section 796.

(2) The relevant official must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold, or continue to hold, the authority.

(3) In considering whether the holder is a suitable person to hold, or to continue to hold, the authority the relevant official must consider any criteria that apply in deciding whether to grant an authority of the same type.

799 Notice and taking effect of decision

(1) If the relevant official makes a decision under section 798, the person must after making the decision give an information notice about the decision to—

(a) the holder; and

(b) for a petroleum authority—any other person who holds an interest in the authority recorded in the register.

(2) Generally, the decision takes effect on the later of the following—

(a) the day the holder is given the information notice;

(b) a later day of effect stated in the notice.

(3) However, if the decision was to cancel or suspend the authority, the decision does not take effect until the end of the appeal period for the decision.

799A Consequence of failure to comply with relinquishment requirement

(1) This section applies if—

(a) noncompliance action taken is a requirement, under section 790(1)(b), of a petroleum authority holder; and

(b) the requirement is not complied with.

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Not authorised—indicative only

(2) The holder must be given a notice requiring the holder to comply with the requirement under section 790(1)(b) within 20 business days after the giving of the notice.

(3) If the holder does not comply with the requirement under the notice, the authority is cancelled.

(4) However, the cancellation does not take effect until the holder is given a notice stating that the authority has been cancelled because of the operation of subsection (3).

Part 3 Remediation of abandoned operating plant

799B Definitions for part

In this part—

abandoned operating plant see section 799C.

abandoned site means land—

(a) on which an abandoned operating plant is located; or

(b) within the boundary of a former tenure or authority for an abandoned operating plant.

affected land see section 799D(2).

authorised person means—

(a) for an abandoned site—a person authorised by the chief executive under section 799D(1) to enter the abandoned site; or

(b) for affected land—a person authorised by the chief executive under section 799D(2) to enter the affected land.

former tenure or authority, for an abandoned operating plant, means a relevant tenure or authority—

(a) under which an authorised activity was previously carried out in relation to the abandoned operating plant; and

(b) that is no longer in force.

relevant tenure or authority means any of the following tenures or authorities—

(a) a 1923 Act petroleum tenure;

(b) a coal or oil shale mining tenement;

(c) a geothermal tenure;

(d) a GHG tenure;

(e) a mineral hydrocarbon mining lease;

(f) a petroleum authority.

remediation activity see section 799CA.

799C Meaning of *abandoned operating plant*

(1) An ***abandoned operating plant*** is—

(a) a facility, pipeline or system—

(i) that is or was an operating plant mentioned in section 670(2); and

(ii) for which a relevant tenure or authority required under an Act is not in force; and

(iii) for which no environmental authority is in force; or

(b) a place, or part of a place—

(i) that is or was an operating plant mentioned in section 670(5); and

(ii) if an activity at the place, or part of the place, was carried out for a relevant tenure or authority—for which the relevant tenure or authority is not in force; and

(iii) for which no environmental authority is in force; or

Not authorised—indicative only

Not authorised—indicative only

(c) an authorised activity—

(i) that was an operating plant mentioned in section 670(6) and (7); and

(ii) for which no relevant tenure or authority is in force; and

(iii) for which no environmental authority is in force; or

(d) any other thing prescribed by regulation that is or was an operating plant.

(2) An ***abandoned operating plant*** does not include a site where a bore drilled under the Water Act or a legacy borehole is located.

799CA Meaning of *remediation activity*

(1) Each of the following activities is a ***remediation activity***—

(a) investigating the condition of—

(i) an abandoned site or affected land; or

(ii) an abandoned operating plant; or

(iii) a structure or equipment on an abandoned site or affected land related to the abandoned operating plant;

(b) capping a wellhead on an abandoned site;

(c) drilling a well or water bore on an abandoned site or affected land to monitor or remediate the site, land or an abandoned operating plant;

(d) maintaining an abandoned operating plant to make it safe;

Examples—

monitor, inspect, carry out repairs

(e) decommissioning an abandoned operating plant;

Examples—

degassing a facility, removing part of a facility

(f) removing, modifying or otherwise making safe structures or equipment on an abandoned site or affected land that are related to an abandoned operating plant;

(g) mitigating, managing, treating or cleaning up pollution that is on an abandoned site or affected land because of, directly or indirectly, an abandoned operating plant;

(h) maintaining, managing and monitoring the condition of an abandoned site or affected land, including, for example—

(i) repairing erosion of the site or land, or vegetation on the site or land; or

(ii) preventing further erosion of the site, land or vegetation; or

(iii) revegetating the site or land;

(i) if an abandoned site or affected land is contaminated land under the Environmental Protection Act—conducting work to remediate the site or land;

(j) removing, mitigating or managing a hazard on an abandoned site or affected land because of, directly or indirectly, an abandoned operating plant;

(k) mitigating, managing or monitoring risks to, or adverse impacts on, public health or safety, other property or the environment because of, directly or indirectly, an abandoned operating plant, including, by constructing infrastructure or installing equipment;

(l) another activity on an abandoned site or affected land, or in relation to an abandoned operating plant, prescribed by regulation—

(i) to make the site, land or abandoned operating plant safe;

(ii) to mitigate, manage or monitor risks to, or adverse impacts on, public health or safety, other property or the environment because of, directly or indirectly, an abandoned operating plant.

Not authorised—indicative only

Not authorised—indicative only

(2) In this section—

other property, in relation to an abandoned operating plant, means—

(a) land that is not an abandoned site or affected land related to the abandoned operating plant; or

(b) a structure, equipment or other thing, other than a structure or equipment—

(i) related to the abandoned operating plant; or

(ii) on an abandoned site or affected land related to the abandoned operating plant.

799D Authorised person to carry out remediation activities

(1) The chief executive may authorise a person to enter an abandoned site to carry out 1 or more remediation activities.

(2) Also, the chief executive may authorise a person to enter land (***affected land***) to carry out 1 or more remediation activities if the chief executive is satisfied—

(a) the remediation activities may be, or are, required to be carried out on the land because of, directly or indirectly, an abandoned operating plant on an abandoned site; or

(b) the entry is necessary to carry out remediation activities on an abandoned site.

(3) The authorisation must—

(a) be in writing; and

(b) state the period of the authorisation.

799E Entering land to carry out remediation activities

(1) An authorised person may enter an abandoned site to carry out remediation activities if the authorised person has given the owner and occupier of the land the notice of entry required under section 799F.

(2) An authorised person may enter affected land if the owner and occupier of the land have consented to the entry under section 799G.

(3) An authorised person for an abandoned site may enter land adjacent to the site if—

(a) the entry is only for the purpose of entering the site under subsection (1) or (4); and

(b) entering the adjacent land is the only reasonably practicable way for the authorised person to enter the site; and

(c) the authorised person has given the owner and occupier of the adjacent land the notice of entry required under section 799F.

(4) An authorised person may enter land mentioned in subsection (1), (2) or (3) without giving notice of entry to, or the consent of, the owner or occupier of the land to carry out remediation activities if carrying out the activities are necessary to preserve life or property.

(5) This section does not authorise an authorised person to enter a structure used for residential purposes without the consent of the occupier of the structure.

799F Notice of entry

(1) An authorised person who enters land under this part must give the owner and occupier of the land written notice about the entry—

(a) if the land is entered to carry out remediation activities necessary to preserve life or property—within 10 business days after entering the land; or

(b) otherwise, if the land is an abandoned site—

(i) at least 10 business before entering the land; or

(ii) a shorter period agreed by the owner and occupier.

(2) The written notice must state the following—

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Not authorised—indicative only

(a) when the entry was made or is to be made;

(b) the purpose of the entry;

(c) if the notice relates to land other than affected land—that the authorised person is permitted under this Act to enter the land without consent or a warrant;

(d) the remediation activities carried out or proposed to be carried out.

799G Consent of owner or occupier to enter affected land

(1) This section applies if an authorised person intends to ask the owner or occupier of affected land for consent to enter the land.

(2) For the purpose of asking the owner or occupier for the consent, the authorised person may, without the consent of the owner or occupier, or a warrant—

(a) enter land around premises at the affected land to an extent that is reasonable to contact an occupier of the affected land; or

(b) enter part of the affected land the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the affected land.

(3) When asking for the consent, the authorised person must tell the owner or occupier—

(a) about the purpose of the entry; and

(b) the proposed day, time and duration of the entry; and

(c) that the owner or occupier is not required to consent; and

(d) that the consent may be—

(i) given subject to reasonable conditions, other than a condition requiring compensation for the entry; and

(ii) may be withdrawn at any time.

(4) If the owner or occupier gives the consent, the authorised person may ask the owner or occupier to sign an acknowledgement of the consent.

(5) The acknowledgement must state—

(a) the purpose of the entry, including the remediation activities to be carried out; and

(b) the following has been explained to the owner or occupier—

(i) the purpose of the entry, including the remediation activities to be carried out;

(ii) the proposed day, time and duration of the entry;

(iii) that the owner or occupier is not required to consent;

(iv) that the consent may be given subject to conditions, other than a condition requiring compensation for the entry, and may be withdrawn at any time; and

(c) the owner or occupier gives the authorised person consent to enter the land and carry out the remediation activities; and

(d) the day and time the consent was given; and

(e) any conditions of the consent.

(6) If the owner or occupier signs the acknowledgement, the authorised person must give a copy of the acknowledgement to the owner and occupier.

799GA Obligation of authorised person in carrying out remediation activities

An authorised person who enters land under this part—

(a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and

Not authorised—indicative only

Not authorised—indicative only

(b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

799GB Report to owner and occupier after entry of affected land

(1) This section applies if an authorised person enters affected land to carry out remediation activities with the consent of the owner and occupier of the land given under section 799G.

(2) The authorised person must give the owner and occupier a report about the entry within 30 days after the entry ends.

(3) The report must state—

(a) whether or not remediation activities were carried out on the affected land; and

(b) if activities were carried out on the land—

(i) the nature and extent of the activities; and

(ii) where on the land the activities were carried out; and

(c) another matter prescribed by regulation for the report.

(4) However, the authorised person is not required to give a report to the owner or occupier of the affected land under this section if the owner or occupier does not wish to receive the report.

799H Abandoned operating plant is not operating plant

(1) For the purposes of chapter 9 and the *Work Health and Safety Act 2011*, an abandoned operating plant is taken not to be an operating plant.

(2) This section applies despite section 670.

Chapter 11 General offences

Part 1AA Industrial manslaughter

799I Definitions for part

(1) In this part—

conduct means an act or omission to perform an act.

employer, for an operating plant or gas work, means—

(a) a person who employs or otherwise engages a person to carry out work in relation to the operating plant or gas work; or

(b) a person who arranges for a person to carry out work in relation to the operating plant or gas work, including, for example, a labour hire agency; or

(c) for an operating plant—the operator of the operating plant; or

(d) for gas work—the holder of a gas work licence, gas work authorisation or gas device approval authority relating to the gas work.

~~***employer***, for an operating plant or gas work, means a person who employs or otherwise engages a worker in relation to the operating plant or gas work.~~

gas work see section 725.

senior officer, of an employer for an operating plant or gas work, means—

(a) if the employer is a corporation—an executive officer of the corporation; or

(b) otherwise—the holder of an executive position (however described) in relation to the employer who makes, or takes part in making, decisions affecting all, or a substantial part, of the employer's functions.

Not authorised—indicative only

Not authorised—indicative only

~~***worker*** means—~~

~~(a) in relation to an operating plant—an individual who is employed or contracted to carry out work at the operating plant; or~~

~~(b) in relation to gas work—an individual who is employed or contracted to carry out work at the place where the gas work is carried out.~~

worker means—

(a) in relation to an operating plant—an individual who is employed, otherwise engaged or arranged to carry out work at the operating plant; or

(b) in relation to gas work—an individual who is employed, otherwise engaged or arranged to carry out work at the place where the gas work is carried out.

(2) For this part, a person's conduct ***causes*** death if it substantially contributes to the death.

799J Exception for the Criminal Code, s 23

The Criminal Code, section 23 does not apply in relation to an offence against this part.

799K Industrial manslaughter—employer

(1) An employer for an operating plant or gas work commits an offence if—

(a) a worker—

(i) dies in the course of carrying out work at the operating plant or the place where the gas work is carried out; or

(ii) is injured in the course of carrying out work at the operating plant, or the place where the gas work is carried out, and later dies; and

(b) the employer's conduct causes the death of the worker; and

(c) the employer is negligent about causing the death of the worker by the conduct.

Maximum penalty—

(a) for an individual—20 years imprisonment; or

(b) for a body corporate—100,000 penalty units.

Note—

See section 840 in relation to imputing to a body corporate particular conduct of executive officers, employees or agents of the body corporate.

(2) An offence against subsection (1) is a crime.

799L Industrial manslaughter—senior officer

(1) A senior officer of an employer for an operating plant or gas work commits an offence if—

(a) a worker—

(i) dies in the course of carrying out work at the operating plant or the place where the gas work is carried out; or

(ii) is injured in the course of carrying out work at the operating plant, or the place where the gas work is carried out, and later dies; and

(b) the senior officer's conduct causes the death of the worker; and

(c) the senior officer is negligent about causing the death of the worker by the conduct.

Maximum penalty—20 years imprisonment.

(2) An offence against subsection (1) is a crime.

Not authorised—indicative only

Not authorised—indicative only

Part 1 Restrictions relating to petroleum activities

800 Restriction on petroleum tenure activities

(1) A person must not carry out a petroleum tenure activity in relation to land unless—

(a) the activity is carried out under this Act or the 1923 Act and under the authority of a petroleum tenure or a 1923 Act petroleum tenure; or

(b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist.

Maximum penalty—2,000 penalty units.

Note—

This provision is an executive liability provision—see section 814.

(2) However, subsection (1) does not apply if—

(a) the activity is the exploration for coal seam gas under a coal or oil shale mining tenement; or

(b) the land is also in the area of a coal or oil shale mining lease and the activity is coal seam gas mining; or

Note—

See the Mineral Resources Act, sections 318CN and 318CNA.

(c) the activity is an activity mentioned in section 32(2) or 109(2) carried out under a coal or oil shale mining lease.

Note—

See however the *Gas Supply Act 2003*, section 257AA (Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction).

(3) In this section—

petroleum tenure activity means to—

(a) explore for or produce petroleum; or

(b) test, develop or use a natural underground reservoir for storage of petroleum or a prescribed storage gas; or

(c) carry out an activity necessary for, or incidental to, an activity mentioned in paragraph (a) or (b).

801 Petroleum producer's measurement obligations

(1) A petroleum producer must ensure—

(a) each product mentioned in subsection (2) is measured by a meter, in accordance with the relevant measurement scheme for the meter; and

Note—

For measurement schemes, see chapter 8, part 2 (Measurement schemes).

(b) the meter complies with any requirements prescribed under a regulation; and

(c) the measurement is made at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

(2) For subsection (1)(a), the products are each of the following—

(a) petroleum the producer produces;

(b) any of the petroleum that is used in the production of petroleum from the petroleum tenure, 1923 Act petroleum tenure or mining tenement on which the petroleum was produced or processed;

(c) any of the petroleum produced that is flared or vented by or for the producer;

(d) any of the petroleum produced that the producer, or someone else for the producer, injects into a natural underground reservoir in the State;

(e) any of the petroleum produced the property in which passes from the producer;

Not authorised—indicative only

Not authorised—indicative only

(f) for a petroleum tenure holder—associated water for the tenure;

(g) any of the petroleum produced that passes through another stage in its production or processing that the Minister gives a notice to the producer is a stage at which the petroleum must be measured.

(2A) However, subsection (1)(a) does not apply to an amount of petroleum that is—

(a) unavoidably lost before it can be measured; or

(b) lost or used as part of normal operations for instrumentation, purging, blowdown or similar activities.

(3) For applying subsections (1) and (2)(f), water is taken to be petroleum.

(4) If there is any inconsistency between the measurement scheme and a regulation made under subsection (1), the regulation prevails to the extent of the inconsistency.

802 Restriction on pipeline construction or operation

(1) A person must not construct or operate a pipeline, other than a distribution pipeline or a produced water pipeline, unless—

(a) the construction or operation is—

(i) carried out—

(A) under this Act and under the authority of a petroleum tenure, a pipeline licence or a petroleum facility licence; or

(B) under the 1923 Act and under the authority of a 1923 Act petroleum tenure; or

(C) under the GHG storage Act and under the authority of a GHG tenure; or

(ii) necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or

(b) the pipeline is completely within a parcel of land, or contiguous parcels of land, owned by the person; or

(c) the operation of the pipeline consists of—

(i) the transportation, within the area of a coal or oil shale mining lease, of coal seam gas mined in the area of the mining lease, under the Mineral Resources Act, section 318CM; or

(ii) the transportation, within the area of 2 or more coal mining leases that share a common boundary or are contiguous, of coal seam gas mined in the area of 1 or more of the mining leases, under the Mineral Resources Act, section 318CM; or

(iii) the transportation, within the area of a mining lease, of a gasification or retorting product produced under the lease.

Maximum penalty—2,000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) In this section—

produced includes extracted, mined or released.

produced water pipeline means a pipeline for transporting produced water if the construction and operation of the pipeline is carried out under an Act other than an Act mentioned in subsection (1)(a)(i).

Not authorised—indicative only

Not authorised—indicative only

803 Restriction on petroleum facility construction or operation

A person must not construct or operate a petroleum facility unless—

(a) the construction or operation is—

(i) carried out under this Act and under the authority of a petroleum authority; or

(ii) carried out under the Mineral Resources Act, section 318CN or 318CNA; or

(iii) necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or

(b) the petroleum facility is a facility constructed or operated under—

(i) the *Amoco Australia Pty. Limited Agreement Act 1961*; or

(ii) the *Ampol Refineries Limited Agreement Act 1964*; or

(c) the petroleum facility is a facility for the distillation, processing, refining, storage or transport of petroleum authorised under a 1923 Act petroleum tenure.

Maximum penalty—2,000 penalty units.

Notes—

1 See however section 876 (Conversion on 2004 Act start day) and the *Gas Supply Act 2003*, section 257AA (Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction).

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

804 Duty to avoid interference in carrying out authorised activities

A person who carries out an authorised activity for a petroleum authority must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Part 2 Interference with authorised activities

805 Obstruction of petroleum authority holder

(1) A person must not, without reasonable excuse, obstruct a petroleum authority holder from—

(a) entering or crossing land to carry out an authorised activity for the petroleum authority if the Common Provisions Act, chapter 3, part 2 or 3, has been complied with in relation to the entry to the extent the part is relevant; or

(b) carrying out an authorised activity for the petroleum authority on the land.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) If a person has obstructed a petroleum authority holder from carrying out an activity mentioned in subsection (1) and the

Not authorised—indicative only

Not authorised—indicative only

holder decides to proceed with the carrying out of the activity, the holder must warn the person that—

(a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and

(b) the holder considers the person's conduct is an obstruction.

(3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

806 Interfering with water observation bore

(1) A person must not interfere with a water observation bore unless the person is the owner of the bore or the owner of the bore consents.

Maximum penalty—1,000 penalty units.

Notes—

1 For ownership of water observation bores, see section 542.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) In this section—

owner, of the bore, means the person who, under section 542, owns the works constructed in connection with the bore.

807 Restriction on building on pipeline land

(1) This section applies if land is pipeline land for 1 or more pipeline licences.

(2) A person, other than a holder of any of the licences, must not construct or place a structure on the land unless all the pipeline licence holders consent.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

808 Restriction on changing surface of pipeline land for a pipeline licence

A person must not change the surface of pipeline land for a pipeline licence in a way that changes, or may cause a change to, the depth of burial of a pipeline unless—

(a) the pipeline licence holder consents; or

(b) the change is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or

(c) the change is a change to a public road by or for its public road authority and the authority has complied with section 427 in relation to the change; or

(d) the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

809 Unlawful taking of petroleum, fuel gas and other substances prohibited

A person must not unlawfully take petroleum, fuel gas, produced water or regulated hydrogen from—

(a) a pipeline the subject of a pipeline licence; or

(b) a petroleum pipeline, as defined under section 110, operated under that section by a petroleum lease holder; or

(c) a gas fitting.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—1,500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

810 Restriction on building on petroleum facility land

A person must not construct or place a structure on petroleum facility land for a petroleum facility licence unless the petroleum facility licence holder consents.

Maximum penalty—500 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

Part 3 Other offences

811 Obstruction of inspector or authorised officer

(1) A person must not, without reasonable excuse, obstruct an inspector or authorised officer exercising a power under this Act.

Maximum penalty—500 penalty units.

(2) If the inspector or authorised officer considers a person has obstructed the inspector or authorised officer and the inspector or authorised officer decides to proceed with the exercise of the power, the inspector or authorised officer must warn the person that—

(a) it is an offence to obstruct the inspector or authorised officer unless the person has a reasonable excuse; and

(b) the inspector or authorised officer considers the person's conduct is an obstruction.

(3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.

812 Pretending to be inspector or authorised officer

A person must not pretend to be an inspector or authorised officer.

Maximum penalty—200 penalty units.

813 False or misleading documents or statements

(1) A person must not make an entry in a document required to be made, adopted, held or kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Notes—

1 This provision is an executive liability provision—see section 814.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(2) A person must not state anything to an inspector or authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Notes—

1 This provision is an executive liability provision—see section 814.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(3) A person must not, in relation to the administration of this Act, give to an inspector or authorised officer a document that the person knows to be false or misleading in a material particular.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—100 penalty units.

Notes—

1 This provision is an executive liability provision—see section 814.

2 If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 814A, to have also committed the offence.

(4) Subsection (3) applies to a document given in relation to the administration of this Act whether or not the document was given in response to a specific power under this Act.

(5) Subsection (3) does not apply to a person if the person, when giving the document—

(a) tells the inspector or authorised officer, to the best of the person's ability, how the document is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

814 Liability of executive officer—particular offences committed by corporation

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits an offence against an executive liability provision; and

(b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

(2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

(a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and

(b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and

(c) any other relevant matter.

(3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.

(4) This section does not affect any of the following—

(a) the liability of the corporation for the offence against the executive liability provision;

(b) the liability, under section 814A, of the executive officer for the offence against the executive liability provision;

(c) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the executive liability provision.

(5) In this section—

executive liability provision means any of the following provisions—

- section 696(2)
- section 696(3)
- section 731AA(1)
- section 800(1)
- section 813(1)
- section 813(2)
- section 813(3).

Not authorised—indicative only

Not authorised—indicative only

814A Executive officer may be taken to have committed offence

(1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.

(2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.

(3) This section does not affect either of the following—

(a) the liability of the corporation for the offence against the deemed executive liability provision;

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.

(5) In this section—

deemed executive liability provision means—

(a) sections 175C(1), 175C(3), 175H(2), 175H(3), 198, 207, 228(1), 281(1), 282, 283, 292(2), 559(1), 560(3), 621(2), 626(1), 628(1), 639(1), 640, 642(1), 643(3), 646(4), 648(1), 648(2), 649, 697(1), 697(2), 697(3), 708A(1), 721(1), 721(2), 727(1), 727(4), 729, 731AA(2), 731AG, 733A, 734(1), 734(3), 766, 782(1), 785, 802(1), 803, 804, 805(1), 806(1), 807(2), 808, 809, 810, 813(1), 813(2) or 813(3); or

(b) the Common Provisions Act, section 39(1) or 43(1).

815 Supply of fuel gas in containers

(1) This section applies to a container that—

(a) has a water capacity of more than 25kg; and

(b) is owned or provided by a product supplier for a fuel gas delivery network.

(2) A person must not supply fuel gas to or in the container without the product supplier's permission to use the container.

Maximum penalty—100 penalty units.

816 Attempts to commit offences

(1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

(2) The Criminal Code, section 4 applies to subsection (1).

Chapter 12 Reviews and appeals

Part 1 Review of decisions

817 Who may apply for internal review

(1) A person who has been given, or is entitled to be given, an information notice about a decision under this Act mentioned in schedule 1, table 1 (an ***original decision***) may apply for an internal review of the decision (an ***internal review application***).

(2) An internal review application may be made only to—

Not authorised—indicative only

Not authorised—indicative only

(a) if the original decision to which the application relates was made by the chief executive—the Minister; or

(b) if the original decision to which the application relates was made by an inspector, other than the chief inspector, or an authorised officer (safety and health)—the chief inspector; or

(c) if the original decision to which the application relates was made by the CEO or the chief inspector—the CEO; or

~~(b) if the original decision to which the application relates was made by an inspector—the chief inspector; or~~

~~(c) if the original decision to which the application relates was made by the CEO—the CEO; or~~

(d) otherwise—the chief executive.

(3) The person to whom the internal review application may be made is the ***reviewer***.

818 Requirements for making application

An internal review application—

(a) can only be made within 20 business days after—

(i) if the person has been given an information notice about the original decision to which the application relates—the day the person is given the notice; or

(ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the original decision; and

(b) must be—

(i) in the approved form; and

(ii) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and

(iii) supported by enough information to enable the decision to be reviewed.

819 Stay of operation of original decision

(1) The reviewer may grant a stay of the original decision to secure the effectiveness of the internal review.

(2) A stay—

(a) may be given on the conditions the reviewer considers appropriate; and

(b) operates for the period fixed by the reviewer; and

(c) may be amended or cancelled by the reviewer.

(3) The period of a stay under this section must not extend past the time when the reviewer decides the internal review.

(4) The internal review affects the decision, or carrying out of the decision, only if it is stayed.

820 Internal review decision

(1) The reviewer must, within 20 business days after the internal review application is made (the ***required period***)—

(a) review the original decision; and

(b) make a decision (the ***internal review decision***) to—

(i) confirm the original decision; or

(ii) amend the original decision; or

(iii) substitute another decision for the original decision.

(2) If the reviewer does not make the internal review decision within the required period, the reviewer is taken to have made that decision and to have decided to confirm the original decision.

Not authorised—indicative only

Not authorised—indicative only

(3) If the internal review decision confirms the original decision, for the purpose of an external review, the original decision is taken to be the internal review decision.

(4) If the internal review decision amends the original decision, for the purpose of an external review, the original decision as amended is taken to be the internal review decision.

821 Internal review procedure

(1) Despite any other provision of this Act or the *Acts Interpretation Act 1954*, section 27A, the reviewer's powers to review the original can not be delegated to—

(a) a person who made the original decision under a delegation; or

(b) if this Act required the decision to be made by a person with particular qualifications or competencies—a person without at least the same or equivalent qualifications or competencies.

(2) The reviewer may, in making the internal review decision, seek and take into account advice or information from anyone, including, for example, a review panel established by the reviewer.

822 Notice of internal review decision

(1) The reviewer must, within 5 business days after making an internal review decision, give the applicant notice (a ***review notice***) of the decision.

(2) If the internal review decision is not the decision sought by the applicant, the review notice must—

(a) for an internal review decision about seizure or forfeiture of a thing—include, or be accompanied by, an information notice for the decision; or

(b) for another internal review decision—include, or be accompanied by, a QCAT information notice for the decision.

(3) If the reviewer does not give the review notice within the 5 business days, the reviewer is taken to have made an internal review decision confirming the original decision.

Part 2 Appeals and external review

823 Who may appeal or apply for external review

(1) A person who is given, or is entitled to be given, a QCAT information notice for an internal review decision may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.

(2) A person who is given, or is entitled to be given, an information notice about seizure or forfeiture of a thing, may appeal against the internal review decision to the District Court (the ***appeal body***).

(3) A person whose interests are affected by a decision identified in schedule 1, table 2, may appeal against the decision to the court (also the ***appeal body***) that the schedule states for the decision.

(4) A person whose interests are affected by a decision identified in schedule 1, table 3, may appeal against the decision to the court (also ***the appeal body***) that the schedule states for the decision.

(5) For subsections (3) and (4), a person who has been given, or is entitled to be given, an information notice about a decision is taken to be a person whose interests are affected by the decision.

Not authorised—indicative only

Not authorised—indicative only

824 Period to appeal

(1) An appeal under section 823 against a decision must be started within 20 business days after—

(a) if the person has been given an information notice for the decision—the day the person is given the notice; or

(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.

(2) However, the appeal body may, at any time within the 20 business days, extend the period for making an appeal.

825 Starting appeal

(1) The appeal is started by filing a written notice of appeal with the appeal body.

(2) A copy of the notice must be lodged.

(3) An appeal to the District Court or industrial court may be made to the District Court or industrial court nearest the place where the applicant resides or carries on business.

(4) Subsection (3) does not limit the court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999* or the *Industrial Relations Act 2016*.

826 Stay of operation of decision

(1) The appeal body may grant a stay of the decision to secure the effectiveness of the appeal.

(2) A stay—

(a) may be given on the conditions the appeal body considers appropriate; and

(b) operates for the period fixed by the appeal body; and

(c) may be amended or cancelled by the appeal body.

(3) The period of a stay under this section must not extend past the time when the appeal body decides the appeal.

(4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

827 Hearing procedures

(1) In deciding an appeal, the appeal body—

(a) has the same powers as the original decider; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice; and

(d) may hear the appeal in court or in chambers.

(2) An appeal is by way of rehearing, unaffected by the decision.

(3) Subject to subsections (1) and (2), the procedure for the appeal is—

(a) in accordance with the rules for the appeal body; or

(b) in the absence of relevant rules, as directed by the appeal body.

(4) A power under an Act to make rules for the appeal body includes power to make rules for appeals under this part.

828 Appeal body's powers on appeal

(1) Subject to section 829, in deciding an appeal, the appeal body may—

(a) confirm the decision; or

(b) set aside the decision and substitute another decision; or

(c) set aside the decision and return the issue to the original decider with the directions the appeal body considers appropriate.

(2) If the appeal body substitutes another decision, the substituted decision is, for this Act, other than this chapter, taken to be the decision of the original decider.

Not authorised—indicative only

Not authorised—indicative only

829 Restriction on Land Court's powers for decision not to grant petroleum lease

(1) This section applies if the Land Court is deciding an appeal against a decision under section 120 not to grant a petroleum lease.

(2) The Land Court can not exercise a power mentioned in section 828(1)(b) or (c) in relation to the decision on the ground that the preference decision for the application for the lease was to give any coal or oil shale development preference, in whole or part.

830 Appeals from appeal body's decision

(1) An appeal to the Court of Appeal from a decision of the District Court under this part may be made only on a question of law.

(2) An appeal to the District Court from a decision of the industrial court under this part may be made only on a question of law.

Chapter 13 Evidence and legal proceedings

Part 1 Evidentiary provisions

831 Application of pt 1

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

832 Appointments and authority

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

(a) the appointment of an inspector or authorised officer;

(b) the power of an official to do anything under this Act.

833 Signatures

A signature purporting to be the signature of an official is evidence of the signature it purports to be.

834 Other evidentiary aids

(1) A certificate stating any of the following matters is evidence of the matter—

(a) a stated document, of any of the following types, is a document given, held, issued, kept or made under this Act—

(i) an appointment, approval or decision;

(ii) a direction, notice or requirement;

(iii) an authority under this Act;

(v) the register the chief inspector keeps under section 734AB;

(vi) the safety management system for an operating plant;

(vii) a report;

(viii) another record;

(aa) that a stated document is a register kept or held under the Common Provisions Act;

(b) a stated document is another document kept or held under this Act;

Not authorised—indicative only

Not authorised—indicative only

(c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);

(d) on a stated day—

(i) a stated person was given a stated decision, direction or notice under this Act; or

(ii) a stated requirement under this Act was made of a stated person;

(e) on a stated day, or during a stated period, an authority under this Act—

(i) was, or was not, in force; or

(ii) was, or was not, subject to a stated condition; or

(iii) was, or was not, cancelled or suspended;

(f) a stated amount is payable under this Act by a stated person and has not been paid;

(g) a stated address for the holder of an authority under this Act is the last address of the holder known to any official;

(h) a stated location is within the area of a stated petroleum authority.

(2) In this section—

certificate means a certificate purporting to be signed by the commissioner, the chief executive, the CEO, the WHS prosecutor, the chief inspector, an inspector or an authorised officer.

835 Proof of requirement for land

A certificate by the Minister that stated land taken under section 456(2) was required by the State or another stated person for a purpose mentioned in section 456(2) is evidence that the taking was for that purpose.

836 Safety management systems

(1) This section applies if it is relevant for a proceeding to establish what was the safety management system for an operating plant at a particular time.

(2) For the proceeding, the safety management system the copy of which was accessible at the plant under section 676(1)(a) at that time is taken to be the safety management system for the plant at that time.

Part 2 Offence proceedings

Division 1 General

837 Proceedings for offences

(1) A charge for an offence against this Act, other than an offence against chapter 11, part 1AA, must be heard and decided summarily.

~~(1) Proceedings for an offence against this Act, other than an offence against chapter 11, part 1AA, are to be heard and decided summarily.~~

(2) A proceeding for an offence against a provision of chapter 7, 8, 9 or 10, or a provision of chapter 11, part 1AA, may only be taken by—

(a) if the offence is a serious offence—the WHS prosecutor; or

(b) otherwise—the CEO or the WHS prosecutor.

(3) However, the CEO may authorise in writing another appropriately qualified person to take a proceeding for an offence mentioned in subsection (2)(b).

(4) An authorisation under subsection (3) may be general or limited to a particular proceeding or class of proceedings.

Not authorised—indicative only

Not authorised—indicative only

(5) An authorisation under subsection (3) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.

(6) A proceeding for an offence against this Act must start within the later of the following periods to end—

(a) 2 years after the offence first comes to the notice of the complainant;

(b) if an enforceable undertaking has been given in relation to the offence, 6 months after the latest of the following to happen—

(i) the enforceable undertaking is contravened;

(ii) it comes to the notice of the CEO that the enforceable undertaking has been contravened;

(iii) the CEO agrees under section 841J to the withdrawal of the enforceable undertaking;

(~~b~~c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the *Coroners Act 2003*—2 years after the coroner makes a finding in relation to the death.

(~~6A~~7) Subsection (6) does not apply to a proceeding for an offence against chapter 11, part 1AA.

(~~7~~8) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the *Director of Public Prosecutions Act 1984*, section 11.

(~~7A~~9) Nothing in this section affects the ability of the director of public prosecutions to bring proceedings for an offence against this Act.

(~~8~~10) In this section—

serious offence means—

(a) an offence against chapter 9 if the act or omission that constitutes the offence caused any of the following circumstances—

(i) the death of, or grievous bodily harm to, more than 1 person;

(ii) the death of, or grievous bodily harm to, only 1 person;

(iii) the exposure of anyone to a substance likely to cause death or grievous bodily harm;

(iv) bodily harm; or

(b) an offence against chapter 11, part 1AA; or

(c) an offence prescribed by regulation for this paragraph.

837A WHS prosecutor may ask CEO for information

(1) The WHS prosecutor may ask the CEO for information relevant to the performance of a function of the WHS prosecutor under this Act.

(2) The CEO must take reasonable steps to provide the information.

(3) In this section—

information includes a document.

837B CEO's duty to disclose information to WHS prosecutor

(1) This section applies in relation to a proceeding for an offence against this Act brought by the WHS prosecutor.

(2) The CEO has a duty to disclose to the WHS prosecutor all information relevant to the proceeding, including knowledge of a matter relevant to the proceeding, in the possession or control of the CEO.

(3) The duty continues until the proceeding is finally decided or otherwise ends.

(4) In this section—

information includes a document.

Not authorised—indicative only

Not authorised—indicative only

837C Procedure if prosecution not brought

(1) This section applies if—

(a) a person reasonably considers that an act or omission constitutes a serious offence under ~~section 837(8)~~ section 837(10); and

(b) no prosecution has been brought in relation to the act or omission; and

(c) the following period has elapsed from when the act or omission happened—

(i) if the act or omission constitutes an offence against chapter 11, part 1AA—at least 6 months;

(ii) otherwise—at least 6 months but no more than 12 months.

(2) The person may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission.

(3) Within 3 months after the WHS prosecutor receives the request, the WHS prosecutor must give the person, and any other person whom the person believes committed the serious offence, a notice in writing stating—

(a) whether the investigation of the act or omission is complete; and

(b) if the investigation of the act or omission is complete, whether a prosecution has been or will be brought in relation to the act or omission; and

(c) if the advice under paragraph (b) is that a prosecution has not been or will not be brought—the reasons for not bringing the prosecution.

(4) Also, if the WHS prosecutor gives a notice under subsection (3)(b) that a prosecution has not been or will not be brought, the WHS prosecutor must—

(a) advise in the notice that the person may ask the WHS prosecutor to refer the matter to the director of public prosecutions for consideration; and

(b) if the person asks the WHS prosecutor in writing to refer the matter to the director of public prosecutions—refer the matter to the director of public prosecutions for consideration within 1 month after the person makes the request.

(5) The director of public prosecutions must consider the matter and within 1 month after the matter is referred give the WHS prosecutor advice in writing stating whether the director considers a prosecution should be brought.

(6) The WHS prosecutor must give a copy of the advice under subsection (5) to—

(a) the person who made the request under subsection (2); and

(b) any other person whom the person mentioned in paragraph (a) believes committed the serious offence.

(7) If the WHS prosecutor declines to follow advice given under subsection (5) to bring proceedings, the WHS prosecutor must give written reasons for the decision to each person mentioned in subsection (6).

838 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

839 Allegations of false or misleading matters

(1) This section applies to a proceeding for an offence against this Act described as involving—

(a) false or misleading information; or

Not authorised—indicative only

Not authorised—indicative only

(b) a false or misleading document or statement.

(2) It is enough for the complaint starting the proceeding to state the document, information or statement was 'false or misleading' to the defendant's knowledge, without specifying which.

(3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

839A Court may order suspension or cancellation of authority

(1) This section applies if a person convicted of an offence against this Act is the holder of any of the following authorities—

(a) a gas work licence;

(b) a gas work authorisation;

(c) a gas device approval authority.

(2) A Magistrates Court, on application by the complainant during the proceeding for the offence, may suspend or cancel the authority held by the person convicted.

(3) A person dissatisfied with the Magistrates Court's decision to suspend or cancel the person's authority who wants to appeal against the decision, must appeal to the District Court.

(4) The Magistrates Court must give notice of the decision to suspend or cancel the person's authority to the chief inspector.

840 Responsibility for acts or omissions of representative

(1) This section applies to a proceeding for an offence against this Act.

(2) If 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 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.

(3) An act 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 to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable precautions and proper diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) for an individual—an employee or agent of the individual; or

(b) for a corporation—an executive officer, employee or agent of the corporation.

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.

840A Costs of investigation

(1) If a court convicts a person of an offence against this Act, the court may order the person to pay to the department~~'s~~ or RSHQ the reasonable costs, incurred by the department or RSHQ, of investigating the offence, including reasonable costs of preparing for the prosecution of the offence.

(2) This section does not limit the orders for costs the court may make.

Not authorised—indicative only

Not authorised—indicative only

841 Orders about forfeiture that may be made on conviction

(1) If a court convicts a person for an offence against this Act, it may—

(a) order the forfeiture to the State of—

(i) anything used to commit the offence; or

(ii) anything else the subject of the offence; and

(b) make any order to enforce the forfeiture it considers appropriate; and

(c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.

(2) Forfeiture of a thing may be ordered—

(a) whether or not it has been seized under this Act; and

(b) if it has been seized under this Act, whether or not it has been returned to its owner.

841AA Recovery of fees

(1) A fee payable under this Act and not paid may be recovered by the CEO—

(a) in summary proceedings under the *Justices Act 1886*; or

(b) by action for a debt in a court of competent jurisdiction.

(2) A fee may also be recovered in a proceeding for an offence against this Act.

(3) An order made in a proceeding under subsection (2) is enforceable under the *Justices Act 1886* as an order for payment of money made by a magistrate under that Act.

(4) An order made in a proceeding under subsection (2)—

(a) may be filed in the registry of a Magistrates Court; and

(b) on being filed, is taken to be an order made by a Magistrates Court and may be enforced accordingly.

Division 2 Sentencing for offences

841AB Application of division

This division applies if a court convicts a person or finds a person guilty (the ***offender***) of an offence against this Act.

841AC Orders generally

(1) One or more orders may be made under this division against the offender.

(2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

841AD Adverse publicity orders

(1) The court may make an order (an ***adverse publicity order***), in relation to the offender, requiring the offender—

(a) to take either or both of the following actions within the period stated in the order—

(i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;

(ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences, the penalty imposed and any other related matter; and

(b) to give the CEO, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.

(2) The court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.

Not authorised—indicative only

Not authorised—indicative only

(3) If the offender fails to give evidence to the CEO as provided under subsection (1)(b), the CEO, or a person authorised in writing by the CEO, may take the action or actions stated in the order.

(4) However, if—

(a) the offender gives evidence to the CEO as provided under subsection (1)(b); and

(b) despite that evidence, the CEO is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;

the CEO may apply to the court for an order authorising the CEO, or a person authorised in writing by the CEO, to take the action or actions.

(5) If the CEO, or a person authorised in writing by the CEO, takes an action or actions under subsection (3) or under an order under subsection (4), the CEO is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount in relation to the reasonable expenses of taking the action or actions as a debt due to the CEO.

841AE Orders for restoration

(1) The court may make an order requiring the offender to take steps stated in the order, within the period stated in the order, to remedy a matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.

(2) The period within which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of the period.

841AF Safety and health project orders

(1) The court may make an order requiring the offender to undertake a stated project for the general improvement of

safety and health of persons who may be affected by activities involving petroleum or fuel gas within the period stated in the order.

(2) The order may state conditions that must be complied with in undertaking the project.

841AG Release on giving of court-ordered undertaking

(1) The court may (with or without recording a conviction) adjourn the proceeding for the offence for a period of not more than 2 years and make an order for the release of the offender on the offender giving an undertaking with stated conditions (a ***court-ordered undertaking***).

(2) A court-ordered undertaking must state the following conditions—

(a) that the offender appear before the court if called to appear during the period of the adjournment and, if stated by the court, at the time to which the further hearing is adjourned;

(b) that the offender does not commit, during the period of the adjournment, any offence against this Act;

(c) that the offender observes any special conditions imposed by the court.

(3) In addition to the order mentioned in subsection (1), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the offender to pay to the State—

(a) the costs of the proceeding; and

(b) the reasonable costs of the CEO in monitoring compliance with the court-ordered undertaking in the future.

(4) An offender who has given a court-ordered undertaking under this section may be called on to appear before the court by order of the court.

Not authorised—indicative only

Not authorised—indicative only

(5) An order under subsection (4) must be served on the offender not less than 4 days before the time stated in the order for the appearance.

(6) If the court is satisfied at the time to which afurther hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered undertaking, the court must discharge the offender without any further hearing of the proceeding.

841AH Injunctions

The court may issue an injunction requiring the offender to cease contravening this Act.

Note—

See also chapter 13, part 3.

841AI Training orders

The court may make an order requiring theoffender to undertake, or arrange for 1 or more persons undertaking activities involving petroleum or fuel gas to undertake, a stated course of training.

841AJ Offence to fail to comply with order

(1) A person must comply with an order under this division, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) This section does not apply to an order or injunction under section 841AG or 841AH.

Part 3 Injunctions

841A Applying for injunction

(1) The CEO or chief inspector may apply to the District Court for an injunction under this part.

(2) An injunction under this part may be granted by the District Court against a person at any time.

841B Grounds for injunction

The District Court may grant an injunction if the court is satisfied a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute—

(a) a contravention of a provision of chapter 9; or

(b) attempting to contravene a provision of chapter 9; or

(c) aiding, abetting, counselling or procuring a person to contravene a provision of chapter 9; or

(d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene a provision of chapter 9; or

(e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention of a provision of chapter 9 by a person; or

(f) conspiring with others to contravene a provision of chapter 9.

841C Court's powers for injunction

(1) The power of the District Court to grant an injunction restraining a person from engaging in conduct may be exercised—

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(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and

(b) whether or not the person has previously engaged in conduct of that kind.

(2) The power of the court to grant an injunction requiring a person to do an act or thing may be exercised—

(a) whether or not it appears to the court that the person intends to fail again, or to continue to fail, to do the act or thing; and

(b) whether or not the person has previously failed to do the act or thing.

(3) An interim injunction may be granted under this part until the application is finally decided.

(4) The court may rescind or vary an injunction at any time.

841D Terms of injunction

(1) The District Court may grant an injunction in the terms the court considers appropriate.

(2) Without limiting the court's power under subsection (1), an injunction may be granted restraining a person from carrying on particular activities—

(a) for a stated period; or

(b) except on stated terms and conditions.

(3) Also, the court may grant an injunction requiring a person to take stated action, including action to disclose or publish information, to remedy any adverse consequences of the person's contravention of this Act.

Part 4 Enforceable undertakings

841E CEO may accept enforceable undertaking

(1) The CEO may accept a written undertaking (an ***enforceable undertaking***) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this Act.

(2) An enforceable undertaking can not be accepted for a contravention or alleged contravention that is—

(a) an offence against section 799K or 799L; or

(b) an offence involving a breach of an obligation causing death.

(3) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

(4) The CEO must issue, and publish on a Queensland Government website, general guidelines in relation to the acceptance of enforceable undertakings under this Act.

(5) The CEO may accept an enforceable undertaking in relation to a contravention or alleged contravention, other than a contravention or alleged contravention mentioned in subsection (2)(a) or (b), before a proceeding in relation to the contravention has been finalised.

(6) If the CEO accepts an enforceable undertaking before the proceeding is finalised—

(a) the CEO must immediately notify the WHS prosecutor; and

(b) the WHS prosecutor must take all reasonable steps to have the proceeding discontinued as soon as possible.

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Not authorised—indicative only

841F Notice of decision and reasons for decision

(1) The CEO must give the person seeking to make an enforceable undertaking written notice of the CEO's decision to accept or reject the enforceable undertaking and of the reasons for the decision.

(2) The CEO must publish, on a Queensland Government website, notice of a decision to accept an enforceable undertaking and the reasons for the decision.

841G When enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the CEO's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the CEO.

841H Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking made by the person that is in effect.

Maximum penalty—500 penalty units.

841I Contravention of enforceable undertaking

(1) The CEO may apply to a Magistrates Court for an order if a person contravenes an enforceable undertaking.

(2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court, in addition to the imposition of 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.

(3) In addition to the orders mentioned in subsection (2), the court may make any other order that the court considers appropriate

in the circumstances, including orders directing the person to pay to the State—

(a) the costs of the proceeding; and

(b) the reasonable costs of the CEO in monitoring compliance with the enforceable undertaking in the future.

(4) Nothing in this section prevents a proceeding being taken for the contravention or alleged contravention of this Act to which the enforceable undertaking relates.

Note—

Section 841K specifies circumstances affecting a proceeding for a contravention for which an enforceable undertaking has been given.

841J 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 CEO—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking can not be varied to provide for a different alleged contravention of the Act.

(3) The CEO must publish, on a Queensland Government website, notice of the withdrawal or variation of an enforceable undertaking.

841K Proceeding for alleged contravention

(1) Subject to this part, no proceeding for a contravention or alleged contravention of this Act may be taken against a person if an enforceable undertaking is in effect in relation to the contravention.

(2) No proceeding may be taken for a contravention or alleged contravention of this Act against a person who has made an

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enforceable undertaking in relation to the contravention and has completely discharged the enforceable undertaking.

Chapter 14 Miscellaneous provisions

Part 1 Applications

Notes—

1 Under section 55A, this part also applies in relation to the lodgement by an authority to prospect holder of a proposed later work program.

2 Under section 145A, this part also applies in relation to the lodgement by a petroleum lease holder of a proposed later development plan.

842 Requirements for making ~~an~~ application

(1) This section applies to a purported application, other than to the Land Court, not made under the requirements under this Act for making the application.

(2) The relevant person for the application must refuse to receive or process the purported application.

(3) However, the relevant person may decide to allow the application to proceed and be decided as if it did comply with the requirements if the relevant person is satisfied the application substantially complies with the requirements.

(4) If the relevant person decides to refuse to receive or process the purported application—

(a) the relevant person must give the applicant notice of the decision and the reasons for it; and

(b) the relevant person must refund the application fee to the applicant.

(5) In this section—

relevant person, for an application, means—

(a) the chief inspector, if the application is made under—

(i) section 622, 728 or 731AB; or

~~(i) section 622 or 728; or~~

(ii) chapter 9, part 1; or

(b) otherwise—the chief executive.

843 Request to applicant about application

(1) For an application under this Act, the relevant person for the application may, by notice, require the applicant to do all or any of the following within a stated reasonable period—

(a) complete or correct the application if it appears to the relevant person to be incorrect, incomplete or defective;

(b) give the relevant person, a stated officer of the department, or ~~another~~a stated ~~officer~~staff member of the ~~department~~employing office, additional information about, or relevant to, the application;

Examples—

1 The application is for a petroleum lease. The chief executive may require additional information about a document given with the application, for example, a document prepared by an appropriately qualified person, independently verifying reserve data given in the proposed development plan for the lease.

2 The application is for a potential commercial area. The chief executive may require additional information about drilling and production test results.

(c) give the relevant person, a stated officer of the department, or ~~another~~a stated ~~officer~~staff member of the ~~department~~employing office, an independent report

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by an appropriately qualified person, or a statement or statutory declaration, verifying all or any of the following—

(i) any information included in the application;

(ii) any additional information required under paragraph (b);

(iii) if the application is for a petroleum tenure—that the applicant meets the relevant capability criteria under chapter 2.

(2) For subsection (1)(b), if the application is for a petroleum authority, a required document may include a survey or resurvey of the area of the proposed authority carried out by a person who is a cadastral surveyor under the *Surveyors Act 2003*.

(3) For subsection (1)(c), the notice may require the statement or statutory declaration—

(a) to be made by an appropriately qualified independent person or by the applicant; and

(b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.

(4) The giving of a statement for subsection (1)(c) does not prevent the relevant person from also requiring a statutory declaration for the subsection.

(5) The applicant must bear any costs incurred in complying with the notice.

(6) The relevant person may extend the period for complying with the notice.

(7) In this section—

application does not include—

(a) an application to a court or tribunal; or

(b) an internal review application under chapter 12, part 1.

employing office see the *Resources Safety and Health Queensland Act 2020*, section 29(1).

information includes a document.

relevant person, for an application under this Act, means—

(a) the chief inspector, if the application is made under—

(i) section 622, 728 or 731AB; or

~~(i) section 622 or 728; or~~

(ii) chapter 9, part 1; or

(b) otherwise—the chief executive.

843A Refusing application for failure to comply with request

(1) This section applies for an application if—

(a) the chief executive or the chief inspector gives a notice under section 843 for the application; and

(b) the period stated in the notice for complying with it has ended; and

(c) the request has not been complied with to the satisfaction of the person who gave the notice.

(2) The application may be refused by—

(a) if the notice was given by the chief executive—the Minister; or

(b) if the notice was given by the chief inspector—the chief inspector.

(3) To remove any doubt, it is declared that subsection (2) applies despite another provision of this Act that provides the application must be granted in particular circumstances or if particular requirements have been complied with.

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Not authorised—indicative only

843B Notice to progress petroleum authority or renewal applications

(1) The Minister may by notice require an applicant for, or to renew, a petroleum authority to do, within a stated reasonable period, any thing required of the applicant under this Act or another Act to allow the application to be decided or the authority to be granted or renewed.

(2) However, the period for complying with the notice must be at least 20 business days after the notice is given.

(3) The Minister may extend the period for complying with the notice.

(4) The Minister may refuse the application if the applicant does not comply with the requirement.

843C Particular criteria generally not exhaustive

(1) This section applies if another provision of this Act permits or requires the decision-maker for an application under this Act to consider particular criteria in deciding the application.

(2) To remove any doubt, it is declared that the decision-maker may, in making the decision, consider any other criteria the decision-maker considers relevant.

(3) However, subsection (2) does not apply if the provision otherwise provides.

(4) In this section—

criteria includes issues and matters.

843D Particular grounds for refusal generally not exhaustive

(1) This section applies if another provision of this Act provides for particular grounds on which the decision-maker for an application under this Act may refuse the application.

(2) To remove any doubt, it is declared that, unless the other provision otherwise provides, the decision-maker may refuse the application on another reasonable and relevant ground.

(3) In this section—

refuse, an application, includes refuse the thing the subject of the application.

844 Amending applications

(1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—

(a) the application has not been decided; and

(b) the relevant person has agreed to the making of the amendment; and

(c) if the proposed amendment is to change the applicant—each applicant, and proposed applicant, has agreed to the change; and

(d) the person has paid any fee prescribed by regulation for the amendment.

(2) However, if the application is a tender for a petroleum tenure—

(a) a proposed work program or development plan included in the tender can not be amended after the applicant has become the preferred tenderer for the tender; and

(b) the tender can not be otherwise amended after the closing time for the relevant call for tenders.

(3) However—

(a) subsection (2)(a) does not apply if the tenderer is required to amend a development plan under the Common Provisions Act, section 132 or 145; and

(b) subsection (2)(b) does not apply if—

(i) the tenderer is a corporation; and

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Not authorised—indicative only

(ii) the change is only a change of name of the tenderer; and

(iii) the tenderer's Australian company number and Australian registered business name have not changed.

(4) If, under subsection (1), the application is amended to change the applicant, for the purpose of deciding the application, the applicant as changed is taken to have been the applicant from the making of the application.

(5) In this section—

relevant person, for an application under this Act, means—

(a) the chief inspector, if the application is made under—

(i) section 622, 728 or 731AB; or

~~(i) section 622 or 728; or~~

(ii) chapter 9, part 1; or

(b) otherwise—the chief executive.

845 Withdrawal of application

(1) A person who has made an application under this Act may lodge a notice withdrawing the application at any time before the following—

(a) generally—before the application is decided;

(b) for a petroleum authority—the granting of the authority.

(2) The withdrawal takes effect when the notice is lodged.

(3) If the applicant is a preferred tenderer for a call for tenders under chapter 2, the withdrawal does not affect the Minister's power to appoint another tenderer from the tenders made in response to the call to be the preferred tenderer.

(5) If the application is a tender in response to a call for tenders, the Minister may, if the Minister considers it reasonable in the

circumstances, retain the whole or part of any tender security given by the tenderer.

846 Minister's power to refund application fee

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

Part 2 Miscellaneous provisions for all authorities under Act

847 Application of pt 2

This part applies for any authority under this Act.

848 Power to correct or amend

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

(a) correct a clerical error; or

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

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

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

(4) The chief executive must record in the register the details of an amendment made under subsection (1) or (3), other than an amendment made to a gas work licence, gas work authorisation or gas device approval authority.

(5) The chief inspector must record in the register kept under section 734AB an amendment made under subsection (1) or

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(3) to a gas work licence, gas work authorisation or gas device approval authority.

~~(3) The chief executive must record in the register the details of an amendment made under subsection (1).~~

~~(4) Also, an official may, at any time, amend a condition of an authority if the authority holder agrees in writing to the amendment.~~

(~~5~~6) Despite subsections (1) and ~~(4)~~(3), the following can not be amended under this section—

(a) the mandatory conditions for that type of authority;

(b) the term of the authority;

(c) any work program or development plan for the authority.

(~~6~~7) Also, the official can not amend the authority if the authority as amended would be inconsistent with a mandatory condition for that type of authority.

Note—

See also section 377 (Interests of relevant coal or oil shale mining tenement holder to be considered).

850 Joint and several liability for conditions and for debts to State

If more than 1 person holds the authority each holder is jointly and severally—

(a) responsible for complying with its conditions; and

(b) liable for all debts payable under this Act and unpaid by the authority holder to the State.

851 Notice of authority or licence holder's agents

An official may refuse to deal with a person who claims to be acting as the authority holder's agent, unless the holder has given the official notice of the agency.

Part 3 Other miscellaneous provisions

851AA Place or way for making applications or giving or lodging documents

(1) This section applies to any of the following under this Act—

(a) the making of an application;

(b) the giving of a document to the Minister, chief executive or chief inspector;

(c) the lodging of a document.

(2) The application or document may be made, given or lodged only—

(a) at the following place—

(i) the office of the department provided for under the relevant approved form for that purpose;

(ii) if the relevant approved form does not make provision as mentioned in subparagraph (i) or if there is no relevant approved form—the office of the department notified on the department's website; or

(b) in the way prescribed under a regulation.

(3) Without limiting subsection (2)(b), the way prescribed under a regulation may include making, giving or lodging the application or document at another place.

(4) This section does not apply to the following—

(a) the making of an application to the Land Court;

(b) the making of an application for a warrant under section 748;

(c) the giving of a document to which the *Taxation Administration Act 2001*, part 11, division 2 applies;

(d) the lodging of any of the following—

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(i) a submission to a public road authority under section 427;

(ii) a proposed later development plan for a converted lease under section 897;

(iii) a statement under section 934A;

(iv) a document that under this Act must be lodged electronically using the system for submission of reports made or approved by the chief executive.

851AB Period of effect of particular later work programs

(1) This section applies if—

(a) before the commencement of this section, the holder of an authority to prospect was given, under section 58, a notice (the ***notice***) of the approval of a proposed later work program for the authority; and

(b) the notice was given to the holder of the authority after the start of the period of the proposed program as stated in the proposed program.

(2) For an Act, the approval has effect, and is taken to have had effect, from—

(a) the start of the period; or

(b) if the notice stated a later day of effect—the later day.

(3) The notice is, and is taken always to have been, valid and effective—

(a) even though the notice was given after the commencement of the period stated for the proposed program; and

(b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the program before the approval was given; and

(c) regardless of the extent to which section 57(2)(b) and (c) was complied with.

Example for paragraph (c)—

It does not matter if a work program was considered under section 57(2)(b) but was not current at the time of its consideration.

(4) This section applies despite chapter 2, part 1, division 3.

851AC Period of effect of particular later development plans

(1) This section applies if—

(a) before the commencement of this section, the holder of a petroleum lease was given, under section 149, a notice (the ***notice***) of the approval of a proposed later development plan for the lease; and

(b) the notice was given to the holder of the lease after the start of the plan period for the proposed plan as stated in the proposed plan.

(2) For an Act, the approval has effect, and is taken to have had effect, from—

(a) the start of the plan period; or

(b) if the notice stated a later day of effect—the later day.

(3) The notice is, and is taken always to have been, valid and effective—

(a) even though the notice was given after the commencement of the plan period stated for the proposed plan; and

(b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the plan before the approval was given; and

(c) regardless of the extent to which section 147(2)(b) was complied with.

Example for paragraph (c)—

It does not matter if a development plan was considered under section 147(2)(b) but was not current at the time of its consideration.

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Not authorised—indicative only

(4) This section applies despite chapter 2, part 2, division 4.

851AD Extended period for applying to change production commencement day

(1) This section applies if a petroleum lease states a production commencement day for the lease, and—

(a) before the commencement of this section, the holder of the lease—

(i) did not start petroleum production under the lease so as to comply with section 154(1); and

(ii) did not make an application under section 175AA to change the production commencement day for the lease; or

(b) on the commencement of this section, the holder of the lease—

(i) reasonably considers the holder is unlikely to be able to start petroleum production under the lease so as to comply with section 154(1) unless the production commencement day for lease is changed to a later date; and

(ii) either—

(A) is unable to make an application under section 175AA to change the production commencement day because the conditions under that section for making the application can not be complied with; or

(B) reasonably considers the holder is unlikely to be able make a suitable application under section 175AA in the time remaining before the start of 1 year, or shorter prescribed period, mentioned in section 175AA(b).

(2) Despite section 175AA(b), the holder may apply under section 175AA in relation to the production commencement day for the lease, but only if—

(a) the application is made no later than 6 months after the commencement of this section; and

(b) the application otherwise complies with chapter 2, part 2, division 7, subdivision 3.

(3) The holder of the petroleum lease is taken not to be in breach of the holder's obligation under section 154(1) until—

(a) if an application under section 175AA is not made as provided for under subsection (2)—the 6 months mentioned in subsection (2)(a) ends; or

(b) if an application under section 175AA is made as provided for under subsection (2)—the Minister decides, under section 175AC, whether to change the production commencement day to a new day, and the decision is not appealed or, if there is an appeal, the appeal is finalised.

851A Public statements by chief executive

(1) The chief executive may make or issue a public statement identifying, and giving information about, the following matters—

(a) the commission of offences against this Act and the persons who commit the offences;

(b) investigations conducted under this Act;

(c) action taken by authorised officers to enforce this Act.

(2) The statement may identify particular offences and persons.

(3) The chief executive must not issue a public statement under this section unless the chief executive is satisfied it is in the public interest to do so.

(4) No liability is incurred by the State for anything done in good faith for the purpose of issuing a public statement under this section.

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(5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section.

(6) In this section—

liability includes liability in defamation.

851B Publication of information by Minister, CEO or chief inspector

(1) The Minister, CEO or chief inspector may publish information about the following matters—

(a) the commission of offences against this Act and the persons who commit the offences;

(b) investigations conducted under this Act;

(c) action taken by inspectors or authorised officers to enforce this Act.

(2) Also, the Minister, CEO or chief inspector may publish the following information relating to relevant incidents—

(a) the total number of relevant incidents that happened in a particular period;

(b) a description of a relevant incident, including, for example, where and when a relevant incident happened;

(c) the details of the holder of an authority issued under this Act in relation to which a relevant incident happened;

(d) the injuries or deaths that occurred in a relevant incident;

(e) any other information about a relevant incident the Minister, CEO or chief inspector considers appropriate.

(3) The Minister, CEO or chief inspector must not publish information under this section unless satisfied that it is in the public interest to do so.

(4) No liability is incurred by the State or any other person for the publication of, or for anything done for the purpose of publishing, information under this section in good faith.

(5) Subsection (4) applies despite section 856.

(6) In this section—

liability includes liability in defamation.

relevant incident means—

(a) a designated accident or incident under section 705D(4); or

(b) a prescribed incident under section 706(1).

~~**851A Public statements**~~

~~(1) The Minister, chief executive, CEO or chief inspector may make or issue a public statement identifying, and giving information about, the following —~~

~~(a) the commission of offences against this Act and the persons who commit the offences;~~

~~(b) investigations conducted under this Act;~~

~~(c) action taken by inspectors or authorised officers to enforce this Act.~~

~~(2) The statement may identify particular offences and persons.~~

~~(3) The Minister, chief executive, CEO or chief inspector must not issue a public statement under this section unless satisfied that it is in the public interest to do so.~~

~~(4) No liability is incurred by the State for anything done in good faith for the purpose of issuing a public statement under this section.~~

~~(5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section.~~

~~(6) In this section —~~

Not authorised—indicative only

Not authorised—indicative only

~~***liability*** includes liability in defamation.~~

852 Name and address for service

(1) A person (the ***first person***) may, by a signed lodged notice, nominate another person (a ***nominated person***) at a stated address as the first person's address for service for this Act.

(2) If this Act requires or permits any official to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person, at the stated address for that person.

(3) In this section—

serve includes give.

853 Additional information about reports and other matters

(1) This section applies if—

(a) a person is required under this Act to lodge a notice or copy of a document, a report or information (the ***advice***) with an official; and

(b) the person gives the advice.

(2) The official may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.

(3) The person must comply with the notice.

Maximum penalty for subsection (3)—500 penalty units.

854 References to right to enter

A right under this Act to enter a place includes the right to—

(a) leave and re-enter the place from time to time; and

(b) remain on the place for the time necessary to achieve the purpose of the entry; and

(c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

Note—

For who may exercise a right of a petroleum authority holder to enter a place, see also section 563.

855 Application of provisions

If a provision of this Act applies any of the following (the ***applied law***) for a purpose—

(a) another provision of this Act;

(b) another law;

(c) a provision of another law;

for that purpose, the applied law and any definition relevant to it apply, with necessary changes.

856 Protection from liability for particular persons

(1) A person as follows (a ***designated person***) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

(a) an official;

(b) a public service officer or employee;

(c) a contractor carrying out activities, relating to the administration of this Act, for the department or RSHQ;

(d) a person who is required to comply with a direction or requirement given under this Act and who is complying with the direction or requirement;

(e) a person authorised to carry out a remediation activity under section 294B;

(f) an authorised person carrying out remediation activities under chapter 10, part 3.

Not authorised—indicative only

Not authorised—indicative only

Example of an act done—

giving information or advice

(2) For subsection (1)(a), it does not matter what is the form of appointment or employment of the person.

(3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.

(4) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

857 Delegation by Minister, chief executive, CEO or chief inspector

(1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified person.

(2) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person.

(2A) The CEO may delegate the CEO's powers under this Act to an appropriately qualified person.

(3) The chief inspector may delegate the chief inspector's powers under this Act to an appropriately qualified person.

Note—

The *Taxation Administration Act 2001*, section 10 provides for the delegation of the revenue commissioner's powers under a tax law, which includes particular provisions of this Act.

858 Approved forms

(1) The chief executive may approve forms for use under a provision of this Act other than a royalty provision.

(2) The CEO may approve forms for use —

(a) under chapter 9; and

(b) in relation to safety and health fees payable under a regulation.

(3) The chief inspector may approve forms for use under chapters 7 to 10 and section 818.

~~(2) The chief inspector may approve forms for use under chapters 7 to 10.~~

(~~3~~4) The revenue commissioner may approve forms for use under a royalty provision of this Act.

(~~4~~5) 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.

859 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about any of the following—

(a) the fees payable under this Act, including late payment fees;

(b) imposing a penalty for a contravention of a provision of a regulation, other than a royalty provision, of no more than 20 penalty units;

(c) imposing a penalty for a contravention of a provision of a regulation that is a royalty provision of no more than 100 penalty units;

(d) the way an application or document must be made, given or lodged for section 851AA(2)(b), or the way a copy of a record must be given for section 548(2)(b), including, for example—

(i) practices and procedures for lodgement of applications and other documents; and

(ii) methods for acknowledging receipt of documents; and

Not authorised—indicative only

Not authorised—indicative only

(iii) methods for acceptance of the lodgement of documents; and

(iv) the time at which a document is taken to have been lodged, but only to the extent that this Act does not provide otherwise;

(e) requiring lodgement of a hard copy of the application or document;

(f) a matter for which, under the *Taxation Administration Act 2001*, a regulation under this Act may make provision.

(3) A regulation under this Act may be made in the same instrument as a regulation made under the 1923 Act.

Chapter 15 Repeal, transitional and validation provisions

Part 1 Repeal of Gas (Residual Provisions) Act 1965

860 Repeal

The Gas (Residual Provisions) Act 1965 No. 68 is repealed.

Part 2 Transitional provisions for Repeal of Gas (Residual Provisions) Act 1965

861 Definitions for pt 2

In this division—

commencement means the day section 860 commences.

repealed Act means the repealed *Gas (Residual Provisions) Act 1965*.

repealed regulation means the repealed *Gas (Residual Provisions) Regulation 1989*.

862 Meters

(1) This section applies to a meter operated under the repealed Act immediately before the commencement.

(2) Chapter 8, part 2, does not apply to the meter until the later of following—

(a) 6 months after the commencement;

(b) if a regulation made within the 6 months prescribes a later day—the later day.

(3) The later day must not be later than 1 year after the commencement.

863 Applications to test meter correctness

(1) This section applies if, immediately before the commencement, an application had been made under the repealed regulation, section 57, to have a meter tested and the test had not been carried out.

(2) Despite their repeal, sections 57 and 58 of that regulation apply for the application, the test and its consequences, instead of chapter 8, part 5.

864 Licences under repealed regulation that become gas work licences

(1) This section applies if, immediately before the commencement, a person held a licence under the repealed regulation, section 83, and the licence (the ***old licence***) was—

(a) a gas installer's licence; or

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(b) a gas serviceman's licence.

(2) On the commencement, the old licence is taken to be a gas work licence for the same purpose as the old licence.

(3) Subject to chapter 10, part 2, division 4, the term of the gas work licence ends when the term of the old licence would have ended.

865 Licences under repealed regulation that become gas work authorisations

(1) This section applies if, immediately before the commencement, a person held a licence under the repealed regulation, section 83, and the licence was—

(a) a gas installer's (advanced) licence; or

(b) a gas motor fuel installer's licence; or

(c) a gas suppliers inspector's licence.

(2) On the commencement, the licence is taken to be an authorisation for the same purpose as the licence.

(3) Subject to chapter 10, part 2, division 4, the term of the authorisation expires 12 months after the commencement.

866 Applications for licence similar to gas work licence or authorisation

(1) This section applies if, immediately before the commencement, a licence application under the repealed regulation, section 84, had not been decided.

(2) If the application is for a type of licence mentioned in section 864 or 865, it is, on the commencement, taken to be an application for a gas work licence or authorisation for the same purpose under this Act.

(3) Otherwise, the application lapses and the application fee must be returned to the applicant.

867 Accidents

(1) Despite its repeal, the repealed Act, as in force immediately before its repeal, continues to apply for an accident if—

(a) it happened before the commencement; and

(b) immediately before its repeal, section 10A of that Act applied to the accident; and

(c) a report on the accident had not been completed before the commencement.

(2) For applying subsection (1), a reference in the repealed Act to—

(a) the chief gas examiner is taken to be a reference to the chief inspector under this Act; and

(b) a gas examiner is taken to be a reference to any inspector under this Act.

868 Gas examiners

(1) This section applies to a person who, immediately before the commencement, is, under the repealed Act, section 7—

(a) the chief gas examiner; or

(b) the deputy chief gas examiner; or

(c) a gas examiner.

(2) On the commencement, the person holds the appointment of—

(a) if the person was the chief gas examiner—the chief inspector; or

(b) if the person was the deputy chief gas examiner—the deputy chief inspector; or

(c) if the person was a gas examiner—an inspector.

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869 Gas examiners' requirements under repealed Act, s 8

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

(a) a gas examiner had given a person a requirement under the repealed Act, section 8; and

(b) the requirement was still in force and had not been complied with.

(2) The requirement is, on the commencement, taken to be a dangerous situation direction given to the person on the commencement.

870 Gas examiners' powers under repealed Act, s 8(1)(e)

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

(a) a gas examiner had seized and removed a substance under the repealed Act, section 8(1)(e); and

(b) the substance has not been dealt with under that Act.

(2) The repealed Act, section 8(1)(e), continues to apply for the substance.

(3) For subsection (1)(a), an inspector under this Act is taken to be a gas examiner.

871 Corresponding decisions under repealed Act

A decision made under the repealed Act about a matter provided for under this Act that continues to have effect immediately before the commencement is, on the commencement, taken to be a decision made under this Act on the commencement.

Part 3 Transitional provisions relating to 1923 Act

Division 1 Preliminary

872 Definitions for pt 3

In this part—

converted ATP see section 876(a).

converted lease see section 894(a).

converted petroleum authority means—

(a) a converted ATP; or

(b) a converted lease; or

(c) an entry permission that, under section 915, becomes a survey licence; or

(d) a converted licence under section 916; or

(e) a refinery permission under the 1923 Act, former section 66, that, under section 919 becomes a petroleum facility licence.

converted petroleum tenure means a converted ATP or converted lease.

CSG-related, for a 1923 Act ATP, means a 1923 Act ATP designated as ATP 337P, ATP 364P, ATP 553P or ATP 564P.

existing tenure see section 908.

grant application see section 908.

relevant 1923 Act ATP, for a converted ATP or a replacement tenure that is an authority to prospect, means the 1923 Act lease that the converted ATP or replacement tenure replaced, or is to replace.

relevant 1923 Act ATP, for a converted lease or a replacement tenure that is a petroleum lease, means the 1923 Act lease that

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the converted lease or replacement tenure replaced, or is to replace.

replacement tenure see section 908.

873 What is the *current term* of a converted ATP

(1) The ***current term*** of a converted ATP is the period that starts on the later of the following days and ends when it is first renewed after 31 December 2004—

(a) the day the relevant 1923 Act ATP was granted;

(b) the day that the last renewal of the relevant 1923 Act ATP before 31 December 2004 became effective.

(2) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.

(3) For subsection (1)(b), a renewal of the relevant 1923 Act ATP is taken to have become effective on the day immediately after the end of its last term before the renewal.

874 What are the *transitional notional sub-blocks* for a converted ATP

(1) The ***transitional notional sub-blocks***, for a converted ATP, are the sub-blocks stated in the instrument for the converted ATP at the start of its current term.

(2) However, the ***transitional notional sub-blocks*** do not include any of the sub-blocks stated in the instrument that are completely within the area of a petroleum lease or 1923 Act lease.

(3) For subsection (1), if the instrument—

(a) states that the area of the converted ATP includes land within a block; but

(b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block, other than any sub-block that is completely within the area of another petroleum tenure or a 1923 Act petroleum tenure.

Division 2 Conversion of particular 1923 Act ATPs to an authority to prospect under this Act

Subdivision 1 Conversion provisions

875 Application of div 2

This division applies to any 1923 Act ATP in force immediately before 31 December 2004 if it is not a 1923 Act ATP as follows or a renewal of a 1923 Act ATP as follows—

(a) a 1923 Act ATP designated as ATP 212P, ATP 259P, ATP 267P, ATP 269P, ATP 299P, ATP 333P, ATP 336P, ATP 337P, ATP 364P, ATP 375P, ATP 470P, ATP 471P, ATP 526P, ATP 529P, ATP 539P, ATP 543P, ATP 545P, ATP 548P, ATP 549P, ATP 552P, ATP 553P, ATP 554P, ATP 556P, ATP 560P, ATP 564P or ATP 701P; or

(b) a 1923 Act ATP prescribed under a regulation notified before 31 December 2004.

876 Conversion on 2004 Act start day

On 31 December 2004—

(a) the 1923 Act ATP ceases to be a 1923 Act ATP and becomes an authority to prospect under this Act (a ***converted ATP***); and

(b) the holder of the 1923 Act ATP is the holder of the converted ATP; and

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(c) the conditions of the 1923 Act ATP about expenditure or work become a later work program for the converted ATP; and

(d) the period to which the conditions apply is taken to be the plan period for the work program; and

(e) any condition of the 1923 Act ATP ceases to be a condition of the converted ATP if the condition is the same, or substantially the same, as any relevant environmental condition for the 1923 Act ATP; and

(f) the converted ATP continues, subject to this Act, for the balance of the 1923 Act ATP's term; and

(g) the converted ATP is held subject to this Act and the conditions of the 1923 Act ATP, as modified under this division; and

(h) the area of the 1923 Act ATP becomes the area of the converted ATP.

Subdivision 2 Special provisions for converted ATPs

877 Exclusion from area of land in area of coal mining lease or oil shale mining lease

(1) This section applies to land if it—

(a) is within any transitional notional sub-block of a converted ATP; and

(b) was, when the relevant 1923 Act ATP was granted, in the area of a coal or oil shale mining lease, whether or not the land was in the area of the 1923 Act ATP.

(2) Despite section 98, the land—

(a) does not form part of the area of the converted ATP; and

(b) is taken to be excluded land for the converted ATP.

878 Relinquishment condition if converted ATP includes a reduction requirement

(1) This section applies if a converted ATP requires its area to be reduced to a stated number of blocks on or before stated days.

(2) Until the first renewal of the converted ATP after 31 December 2004—

(a) the requirement is the ***relinquishment condition*** for the converted ATP; and

(b) the requirement applies instead of chapter 2, part 1, division 4, subdivision 2.

(3) However, the relinquishment condition is taken to include a requirement that, before the first renewal of the converted ATP after 31 December 2004, at least 5% of the transitional notional sub-blocks of the converted ATP must have been relinquished for each 12 month period of its current term.

(4) Also, a relinquishment of a part of the area of the converted ATP that overlaps with the area of a lease under this Act or a 1923 Act lease can not be counted as a relinquishment for the relinquishment condition.

879 Relinquishment condition if authority does not include a reduction requirement

(1) If the authority does not include a requirement mentioned in section 878(1), the ***relinquishment condition*** for the authority is the relinquishment condition under section 65, with the following changes—

(a) the required percentage is 5% instead of 8.33%;

(b) the reference in section 66(2) to the authority originally taking effect is a reference to the start of its current term.

(2) Chapter 2, part 1, division 4, subdivision 2 applies to the authority, subject to the changes under subsection (1).

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880 Provision for conflicting conditions

(1) If a provision of a converted ATP conflicts with any of the following (the ***overruling provision***) the overruling provision prevails to the extent of the inconsistency—

(a) a provision of this Act;

(b) a mandatory condition for authorities to prospect under this Act;

(c) a relevant environmental condition for the converted ATP.

(2) However, section 98(7) does not apply for the converted ATP.

881 Additional conditions for renewal application

(1) This section applies as well as section 81.

(2) A converted ATP holder can not apply to renew the converted ATP if section 878 applies and the relinquishment condition under that section has not been complied with.

(3) However, to the extent the application is for a whole sub-block in the area of a petroleum lease or 1923 Act lease, the application is invalid.

882 Term of renewed converted ATP

Despite section 85(7), a converted ATP may be renewed for a renewed term that ends no more than 12 years from—

(a) if the renewal decision is made before the end of the current term for the converted ATP—the end of the current term; or

(b) if the renewal decision is made after the end of the current term for the converted ATP—the day the decision is made.

883 Exclusion of s 98(7) for any renewal

Section 98(7) does not apply to a renewal of a converted ATP.

884 Existing renewal applications

(1) This section applies if—

(a) a 1923 Act ATP is in force immediately before 31 December 2004; and

(b) under section 876, the 1923 Act ATP becomes a converted ATP on 31 December 2004; and

(c) before 31 December 2004 an application to renew the 1923 Act ATP had been made under the 1923 Act, but the application had not been granted before that day.

(2) On 31 December 2004, the application is taken to be a renewal application for the converted ATP made under sections 81 and 82.

(3) Sections 882 and 883 apply to the renewal.

885 Continued application of 1923 Act, former s 22 to converted ATP for previous acts or omissions

Despite its repeal the 1923 Act, former section 22, as it was in force immediately before 31 December 2004, continues to apply to a converted ATP for an act done or omission made in relation to the relevant 1923 Act ATP that happened before that day, as if the converted ATP were still a 1923 Act ATP.

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Division 3 Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given)

886 Application of div 3

This division applies for any 1923 Act ATP application if, immediately before 31 December 2004—

(a) the application had not been granted or rejected; and

(b) a notice under the Commonwealth Native Title Act, section 29, had not been given for the proposed 1923 Act ATP the subject of the application.

887 Applications for which notice of intention to grant has been given

(1) This section applies if, before 31 December 2004, the Minister gave the applicant a notice of intention to grant the applicant a 1923 Act ATP, subject to stated requirements.

(2) The application is taken to be a tender, under chapter 2, part 1, division 2, for a proposed authority to prospect, made in response to a call for tenders for that proposed authority.

(3) The closing time for the call is taken to have passed.

(4) The applicant is taken to have been appointed, under section 39, as the preferred tenderer for the call.

(5) The stated requirements are taken to be requirements made under section 40.

888 Applications in response to public notice

(1) This section applies if—

(a) a notice of intention to grant mentioned in section 887(1) had not been given before 31 December 2004; and

(b) the application was made in response to a public notice, published by the Minister or the department, inviting applications for a 1923 Act ATP; and

(c) the notice complies, or substantially complies with section 35(2).

(2) The public notice is taken to be a call for tenders for a proposed authority to prospect.

(3) The call is taken to have been made when the public notice was published.

(4) The closing time for the call is taken to be the day stated in the public notice by which applications must be submitted.

(5) The application is taken to be a tender, under chapter 2, part 1, division 2, for the proposed authority, made in response to the call.

889 Other applications made before introduction of Petroleum and Other Legislation Amendment Bill 2004

(1) If the application—

(a) was made before the day the *Petroleum and Other Legislation Amendment Bill 2004* was introduced into Parliament; and

(b) is not an application to which section 887 or 888 applies;

it is taken to be a tender, under chapter 2, part 1, division 2 for a proposed authority to prospect, made in response to a call for tenders for the proposed authority.

(2) The closing time for the call is taken to be the day on which this subsection commenced.

Not authorised—indicative only

Not authorised—indicative only

890 Lapsing of all other applications

The application lapses on 31 December 2004 unless it is an application to which section 887, 888 or 889 applies.

Division 4 Transition, by application, from 1923 Act ATP to petroleum lease under this Act

891 Right of 1923 Act ATP holder to apply for petroleum lease

(1) The holder of a 1923 Act ATP may, after 31 December 2004, apply for a petroleum lease under this Act for all or part of the area of the 1923 Act ATP.

(2) The application may include a request that excluded land for the 1923 Act ATP be declared to be excluded land for the petroleum lease.

892 Provisions for deciding application and grant of petroleum lease

(1) The following provisions of this Act apply for the application as if a reference in the provisions to an authority to prospect included a reference to the 1923 Act ATP—

(a) chapter 2, part 2, division 2, other than sections 120, 121 and 122;

(b) chapter 2, part 2, division 4;

(c) chapter 2, part 2, division 7, subdivision 1;

(d) section 101.

Note—

Chapters 3 and 3A may also apply for the application. See sections 297 and 392AA.

(2) This section does not limit division 7.

Division 5 Conversion of particular 1923 Act leases to petroleum leases

Subdivision 1 Conversion provisions

893 Application of sdiv 1

This division applies to—

(a) the 1923 Act leases numbered 194, 195, 198, 209, 219, 220 and 226; and

(b) another 1923 Act lease prescribed under a regulation notified before 31 December 2004.

894 Conversion on 2004 Act start day

On 31 December 2004—

(a) the 1923 Act lease ceases to be a 1923 Act lease and becomes a petroleum lease under this Act (a ***converted lease***); and

(b) the holder of the 1923 Act lease is the holder of the converted lease; and

(c) the current program for development and production for the 1923 Act lease is taken to be the development plan for the converted lease; and

(d) any condition of the 1923 Act lease ceases to be a condition of the converted lease if the condition is the same, or substantially the same as any relevant environmental condition for the converted lease; and

(e) the converted lease continues, subject to this Act, for the balance of the 1923 Act lease's term; and

(f) the converted lease is held subject to this Act and the conditions of the 1923 Act lease, other than any condition mentioned in paragraph (d); and

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(g) the area of the 1923 Act lease becomes the area of the converted lease.

Subdivision 2 Special provisions for converted leases

895 Provision for conflicting conditions

(1) If a provision of the 1923 Act lease conflicts with any of the following (the ***overruling provision***) the overruling provision prevails to the extent of the inconsistency—

(a) a provision of this Act;

(b) a mandatory condition for petroleum leases under this Act;

(c) a relevant environmental condition for the converted lease.

(2) However, section 168(6) does not apply to the converted lease or for any renewal of the lease.

896 Sunsetting of particular activities

(1) This section applies if—

(a) an activity for a converted lease is provided for under the provisions of the lease; and

(b) the activity was, under the relevant 1923 Act lease, being carried out before 31 December 2004; and

(c) the carrying out of the activity—

(i) is, other than for this section, not an Act authorised activity for the converted lease; or

(ii) is inconsistent with an Act authorised activity.

(2) Despite the provisions of the lease or the definition of authorised activity in schedule 2, the activity is taken to be an authorised activity for the converted lease.

(3) Subsection (2) ceases to apply on the fifth anniversary of 31 December 2004.

(4) Subsection (2) applies whether or not the activity was being carried out immediately before 31 December 2004.

(5) In this section—

Act authorised activity means an activity that, under a provision of this Act, is an authorised activity for a petroleum lease.

897 Additional obligation of converted lease holder to lodge proposed later development plan

(1) This section applies, as well as section 159, to a converted lease holder.

(2) If any of the area of the converted lease is, on 31 December 2004, the subject of an application for a coal exploration tenement or coal mining lease, the holder must lodge a proposed later development plan for the converted lease before 6 months after 31 December 2004 (the ***relevant time***).

(3) If, on 31 December 2004, the remaining term of the converted lease is 5 years or more, the holder must lodge a proposed later development plan for the converted lease before the first anniversary of the original grant of the relevant 1923 Act lease that happens after 6 months after 31 December 2004 (also the ***relevant time***).

(4) The obligation under subsection (2) or (3) is complied with only if the proposed later development plan—

(a) is lodged at—

(i) the office of the department for lodging proposed later development plans, as stated in a gazette notice by the chief executive; or

(ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and

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(b) complies with the later development plan requirements; and

(c) is accompanied by the relevant fee.

(5) If, before the relevant time, a decision is made not to approve a proposed later development plan lodged under subsection (2) or (3), the holder may lodge another proposed later development plan before that time.

(6) If the holder does not lodge any proposed later development plan before the relevant time—

(a) the holder must be given a notice requiring the holder to lodge a proposed later development plan for the lease within 20 business days after the giving of the notice; and

(b) the holder must comply with the requirement.

(7) Chapter 2, part 2, division 4, subdivision 5 applies to a proposed later development plan lodged under this section.

(8) In this section—

relevant fee, for the lodgement of the proposed plan, means—

(a) if the proposed plan is lodged before the relevant time—the fee prescribed under a regulation; or

(b) if the proposed plan is lodged after the relevant time and—

(i) it is lodged under subsection (5)—nil; or

(ii) otherwise 20 times the prescribed fee.

898 Consequence of failure to comply with notice to lodge proposed later development plan

(1) If a converted lease holder does not comply with a requirement under section 897(6)(a), the lease is cancelled.

(2) However, the cancellation does not take effect until the holder is given a notice stating that the lease has been cancelled because of the operation of subsection (1).

899 Existing renewal applications

If—

(a) under section 894, a former 1923 Act lease becomes a converted lease on 31 December 2004; and

(b) before 31 December 2004, an application to renew the lease had been made under the 1923 Act; and

(c) immediately before 31 December 2004 the application had not been granted;

on 31 December 2004, the application is taken to be a renewal application for the converted lease, made under sections 161 and 162.

900 Exclusion of s 168(8) for any renewal application

Section 168(8) does not apply to—

(a) a renewal application to which section 899 applies; or

(b) any subsequent renewal application for the converted lease the subject of that application.

901 Lapsing of undecided applications to unite converted leases that relate to a converted lease

If—

(a) immediately before 31 December 2004, an application had been made under the 1923 Act, section 100, to unite 1923 Act leases; and

(b) on 31 December 2004—

(i) any of the 1923 Act leases becomes a converted lease; and

(ii) the application had not been decided;

the application lapses on 31 December 2004.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Conversion provision inserted under Mines and Energy Legislation Amendment Act 2008 for PL 200

901A Application of sdivs 1 and 2

(1) This section applies to the 1923 Act lease numbered 200.

(2) Subdivisions 1 and 2 apply to the lease as if the reference in the subdivisions to 31 December 2004 were a reference to the day this section commences.

(3) For applying any other provision of this part, the lease is taken to be a converted lease.

Division 6 Provisions for particular 1923 Act lease applications and 1923 Act lease renewal applications

Subdivision 1 Existing 1923 Act, s 40 applications relating to a CSG related 1923 Act ATP or a converted ATP

902 Application of sdiv 1

This subdivision applies if—

(a) before 31 December 2004, an application had been made under the 1923 Act, section 40, by the holder of a 1923 Act ATP for a 1923 Act lease; and

(b) immediately before 31 December 2004, the application had not been decided; and

(c) either—

(i) the 1923 Act ATP is CSG-related; or

(ii) under section 876, the 1923 Act ATP becomes a converted ATP on 31 December 2004.

903 Applications for CSG-related 1923 Act ATPs

(1) If the 1923 Act ATP is CSG-related, the application is taken to be an application under the following division—

(a) if the relevant coal or oil shale mining tenement is a coal or oil shale exploration tenement—whichever of chapter 3, part 2, division 1 or 2 applies;

(b) if the relevant coal or oil shale mining tenement is a coal or oil shale mining lease—whichever of chapter 3, part 3, division 2 or 3 applies.

(2) However, no step may be taken in relation to the application until the relevant requirements under the division for making an application have been complied with.

(3) For section 842, the application is taken to be an application under this Act.

904 Other applications

(1) If the 1923 Act ATP is not CSG-related, the application is taken to be an ATP-related application.

(2) Chapter 2, part 2, division 2, applies to the application.

Note—

Chapter 3 may also apply for the application. See section 297.

(3) For section 842, the application is taken to be an application under this Act.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 2 Petroleum leases provided for under particular agreements before or after 31 December 2004

905 Application of sdiv 2

This subdivision applies if, before or after 31 December 2004, an agreement as follows provides for the granting of a proposed petroleum lease under this Act—

(a) an agreement mentioned in the Commonwealth Native Title Act, section 31(1)(b);

(b) an indigenous land use agreement registered on the register of indigenous land use agreement under the Commonwealth Native Title Act.

906 Petroleum lease under this Act may be granted if so provided

(1) If the agreement provides for the proposed petroleum lease to be granted under this Act, it may be applied for and granted under this Act.

(2) If the agreement provides for the proposed lease to be renewed under this Act, it may be renewed as a petroleum lease under this Act.

907 Restriction on term of petroleum lease

The term of the renewed petroleum lease must not be longer than the shorter of the following—

(a) 30 years;

(b) the original term of the petroleum lease;

(c) its last renewed term.

Division 7 Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure

Subdivision 1 Applying for and obtaining replacement tenure

908 Right to apply for petroleum tenure

(1) The holder of a 1923 Act ATP (the ***existing tenure***) may apply (the ***grant application***) for an authority to prospect (the ***replacement tenure***) under this Act for all or part of the area of the 1923 Act ATP.

(2) The holder of a 1923 Act lease (also the ***existing tenure***) may apply (also the ***grant application***) for a petroleum lease under this Act (also the ***replacement tenure***) for all or part of the area of the 1923 Act lease.

(3) The grant application can not be made before 31 December 2004.

(4) The grant application may include a request that excluded land for the existing tenure be declared to be excluded land for the replacement tenure.

(5) The chief executive must record in the register against the replacement tenure all the dealings, caveats and associated agreements recorded in the register against the existing tenure at the time the replacement tenure is registered.

909 Continuing effect of existing tenure for grant application

(1) This section applies if before the grant application is decided the term of the existing tenure ends.

(2) Despite the ending of the term, the existing tenure continues in force until the earlier of the following to happen—

(a) the replacement tenure is granted;

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(b) the application is rejected;

(c) the application is withdrawn;

(d) the existing tenure is cancelled under the 1923 Act.

910 Renewal application provisions apply for making and deciding grant application

(1) Subject to subdivision 2, the following provisions apply to the making and deciding of the grant application and to the replacement tenure—

(a) if the existing tenure is a 1923 Act ATP—

(i) chapter 2, part 1, division 5, other than sections 81(2), 82(1)(a) and (i) and 83; and

(ii) sections 99 and 100;

(b) if the existing tenure is a 1923 Act lease—

(i) chapter 2, part 2, division 6, other than sections 161(2) and (3), 162(1)(a) and (f), 163 and 165(4);

(ii) sections 169 and 170.

(2) The provisions applied under subsection (1) apply as if—

(a) the grant application were an application to renew the type of petroleum tenure that corresponds to the existing tenure; and

(b) in chapter 2, part 1, division 5, a reference to—

(i) the authority to prospect were a reference to the 1923 Act ATP; and

(ii) the authority to prospect holder were a reference to the 1923 Act ATP holder; and

(iii) a work program for the authority to prospect were a reference to the work program for the 1923 Act ATP; and

(iv) the renewed authority to prospect were a reference to the replacement tenure; and

(c) in chapter 2, part 2, division 6, a reference to—

(i) the petroleum lease were a reference to the 1923 Act lease; and

(ii) the petroleum lease holder were a reference to the 1923 Act lease holder; and

(iii) a development plan for the petroleum lease were a reference to the development plan under the 1923 Act for the 1923 Act lease; and

(iv) the renewed petroleum lease were a reference to the replacement tenure; and

(d) a reference to—

(i) the civil penalty were a reference to the civil penalty under the 1923 Act; and

(ii) interest were a reference to interest under the 1923 Act.

(3) Sections 98 and 168 do not apply to the replacement tenure.

Note—

Chapters 3 and 3A may also apply for the grant application. See sections 297 and 392AA.

911 Effect of replacement tenure on existing tenure

(1) This section applies if the replacement tenure takes effect.

(2) If the area the subject of the grant application is all the land in the area of the existing tenure, the existing tenure ends.

(3) If the area the subject of the grant application is only part of the land in the area of the existing tenure—

(a) the part ceases to be in the area of the existing tenure; and

(b) land that, at any time, is declared to be excluded land for the replacement tenure ceases to be excluded land for the existing tenure.

Not authorised—indicative only

Not authorised—indicative only

911A Provision for continuance of 1923 Act make good obligation

The make good obligation for the replacement tenure applies as if a reference in this Act to the exercise of underground water rights for the replacement tenure included a reference to the taking of water necessarily taken as part of petroleum production under the existing tenure.

Subdivision 2 Special provisions for the replacement tenure

912 Restrictions on term and renewed terms

(1) If the replacement tenure is an authority to prospect the term of any renewal of the tenure must not end more than 12 years from the end of its current term.

(2) The ***current term*** of an authority to prospect is the period that starts on the later of the following days and ends when it is first renewed after 31 December 2004—

(a) the day the relevant 1923 Act ATP was granted;

(b) the day that the last renewal of the relevant 1923 Act ATP before 31 December 2004 became effective.

(3) However, a relevant 1923 Act ATP granted between 1 January 1994 and 23 December 1996 ends on a day decided by the Minister.

(4) For subsection (2)(b), a renewal of the authority is taken to have become effective on the day immediately after the end of its last term before the renewal.

(5) If the replacement tenure is a petroleum lease, the term of the tenure ends on the earlier of the following—

(a) 30 years after the grant of the replacement lease;

(b) a day decided by the Minister.

913 Relinquishment condition for replacement authority to prospect

If the replacement tenure is an authority to prospect (the ***replacement authority***), section 878 or 879 applies as if a reference in the section to a converted ATP were a reference to the replacement authority.

Division 8 Matters relating to licence equivalents before 31 December 2004

914 Requests for entry permission

If, before 31 December 2004, the Minister was asked to grant an entry permission under the 1923 Act for land, the Minister may treat the request as a survey licence application made under chapter 4, part 1 for the land.

915 Entry permissions

(1) This section applies if an entry permission under the 1923 Act former section 67 is in force immediately before 31 December 2004 for land.

(2) On 31 December 2004—

(a) the permission is a survey licence under this Act for the land; and

(b) the holder of the permission is the holder of the licence.

(3) The licence continues, subject to this Act, for the shorter of the following periods to end—

(a) the balance of the permission's term;

(b) the period that ends 1 year after 31 December 2004.

(4) The licence is held subject to this Act and the conditions of the permission.

Not authorised—indicative only

Not authorised—indicative only

(5) However, if a condition of the permission conflicts with a mandatory condition for survey licences or any relevant environmental condition for the licence, the mandatory condition or relevant environmental condition prevails to the extent of the inconsistency.

916 Pipeline licences

(1) This section applies if a pipeline licence (the ***old licence***) under the 1923 Act is in force immediately before 31 December 2004 for land.

(2) On 31 December 2004—

(a) the old licence is a pipeline licence under this Act for the land (a ***converted licence***); and

(b) the holder of the old licence is the holder of the converted licence; and

(c) if the old licence had a term, the converted licence is for the balance of the old licence's term; and

(d) the converted licence is held subject to this Act and the conditions of the old licence, other than any condition that is the same, or substantially the same, as any relevant environmental condition for the converted licence.

(3) However, if a condition of the old licence conflicts with any of the following (the ***overruling provision***) the overruling provision prevails to the extent of the inconsistency—

(a) a provision of this Act;

(b) a mandatory condition for pipeline licences under this Act;

(c) a relevant environmental condition for the converted licence.

917 Requests for pipeline licence

If, before 31 December 2004, the Minister was asked to grant a pipeline licence under the 1923 Act for land, the Minister may treat the request as a pipeline licence application made under chapter 4, part 2 for the land.

918 Approvals under 1923 Act, s 75(5) continue in force

An approval under the 1923 Act, former section 75(5), that is in force immediately before 31 December 2004 for land, despite the repeal of former section 75, continues in force for the land.

919 Refinery permissions

(1) This section applies if a refinery permission under the 1923 Act, former section 66, is in force immediately before 31 December 2004.

(2) If, immediately before 31 December 2004, the refinery had been constructed and was in operation, on 31 December 2004—

(a) the permission is a petroleum facility licence; and

(b) the holder of the permission is the holder of the licence; and

(c) if the permission had a term—the term of the licence is the balance of the permission's term; and

(d) if the permission did not have a term—the term of the licence ends 30 years after 31 December 2004; and

(e) the licence is held subject to this Act and the conditions of the permission, other than any condition that is the same, or substantially the same, as any relevant environmental condition for the licence; and

(f) until an annual fee is prescribed for the licence, the annual fee for the licence is the annual fee payable for the permission.

Not authorised—indicative only

Not authorised—indicative only

(3) However, if a condition of the permission conflicts with any of the following (the ***overruling provision***) the overruling provision prevails to the extent of the inconsistency—

(a) a provision of this Act;

(b) a mandatory condition for petroleum facility licences;

(c) a relevant environmental condition for the petroleum facility licence.

(4) If the refinery had not been constructed or was not in operation immediately before 31 December 2004, the permission lapses.

Division 9 Securities

920 Monetary securities

(1) This section applies to security (the ***existing security***) held as money in relation to a converted petroleum authority immediately before 31 December 2004.

(2) The department must, as soon as practicable, after 31 December 2004, transfer the following part of the existing security (the ***environmental component***) to the administering authority under the Environmental Protection Act—

(a) if the converted petroleum authority is an authority to prospect—the amount of the existing security, less $4,000;

(b) if the converted petroleum authority is a petroleum lease—the amount of the existing security, less $10,000.

(3) On the transfer, the rest of the existing security is taken to be security given under this Act for the converted petroleum authority.

(4) Until the transfer happens, the existing security may continue to be used for any purpose for which it was given.

(5) In this section—

used includes realised, in whole or part.

921 Non-monetary securities

(1) This section applies to security held, other than as money, in relation to a converted petroleum authority.

(2) From 31 December 2004, the security may continue to be used for any purpose for which it was given.

(3) However, subsection (2) does not—

(a) prevent the security being used after 31 December 2004 in relation to an act done or omission made before 31 December 2004 if it could have been used in relation to the act or omission immediately before 31 December 2004; or

(b) affect the power under this Act to require replacement security or additional security for the converted petroleum authority; or

(c) affect any power under the Environmental Protection Act to require financial assurance for any relevant environmental authority for the converted petroleum authority.

(4) In this section—

used includes realised, in whole or part.

Division 10 Compensation

922 Accrued compensation rights relating to converted petroleum authority

(1) This section applies if—

(a) a right, under the former 1923 Act compensation provisions, to compensation existed immediately before 31 December 2004; and

Not authorised—indicative only

Not authorised—indicative only

(b) the right relates to a converted petroleum authority.

(2) The right continues after 31 December 2004.

(3) The compensation must be decided under the former 1923 Act compensation provisions as if the provisions had not been repealed.

(4) A matter relating to the compensation that, before 31 December 2004, had been referred to the Land and Resources Tribunal but not decided must be decided under the former 1923 Act compensation provisions.

(5) In this section—

former 1923 Act compensation provisions means sections 18(5) and 97 to 99 of the 1923 Act, as they were in force immediately before 31 December 2004.

923 Existing compensation agreements relating to converted petroleum authority

(1) This section applies to an agreement mentioned in section 98(1) of the 1923 Act, as it was in force immediately before 31 December 2004, for compensation relating to a converted petroleum authority.

(2) On 31 December 2004, the agreement is taken to be a compensation agreement made under this Act.

(3) The agreement may be enforced as if the agreement were a compensation agreement under chapter 5, part 5.

(4) However, the agreement can not be the subject of an application under section 534.

(5) Subsection (3) applies even if the agreement was not valid because section 98(2) of the 1923 Act, as it was in force immediately before 31 December 2004, had not been complied with.

Division 11 Miscellaneous provisions

924 Conversion of unitisation arrangement or unit development agreement to coordination arrangement

(1) This section applies to a unit development agreement approved under the 1923 Act, section 102(2) or unitisation arrangement under that Act, if the agreement or arrangement was in force immediately before 31 December 2004.

(2) On 31 December 2004, the agreement or arrangement is taken to be a coordination arrangement approved under section 236.

(3) The parties to the agreement or arrangement are the parties to the coordination arrangement.

(4) For the *Trade Practices Act 1974* (Cwlth), the approval and authority under section 63(5) of that Act, as in force immediately before 31 December 2004, continues for the unitisation arrangement.

925 Entry notices under Petroleum Regulation 1966, s 17

(1) This section applies if a notice of entry under the *Petroleum Regulation 1966*, section 17 is in force immediately before 31 December 2004 and the notice relates to a converted petroleum tenure or a replacement tenure.

(2) On 31 December 2004—

(a) the notice of entry is taken to be an entry notice; and

(b) the entry notice is taken to have been given under chapter 5, part 2; and

(c) the entry period for the entry notice is the shorter of the following periods to end—

(i) the balance of the period of the notice of entry;

(ii) the period that ends 6 months after 31 December 2004.

Not authorised—indicative only

Not authorised—indicative only

926 Provisions for petroleum royalty

(1) If immediately before 31 December 2004—

(a) royalty was payable under the 1923 Act for petroleum produced before 31 December 2004; and

(b) the royalty had not been paid;

from 31 December 2004, the royalty may be recovered from the petroleum producer as petroleum royalty payable under this Act.

(2) Chapter 6 applies to petroleum produced before 31 December 2004 if liability under the 1923 Act for actual payment of the royalty had not arisen before that day.

(3) Despite subsections (1) and (2), petroleum royalty is not payable under this Act for petroleum flared or vented under an approval given under the 1923 Act before 31 December 2004.

927 Corresponding approvals and decisions under 1923 Act for a converted petroleum authority

(1) This section applies to an approval or decision—

(a) about any of the following under the 1923 Act—

(i) an authority to prospect;

(ii) a petroleum lease;

(iii) a pipeline licence;

(iv) a refinery permission; and

(b) made under the 1923 Act about a matter provided for under this Act; and

(c) that continues to have effect immediately before 31 December 2004.

(2) On 31 December 2004, the approval or decision is taken to be an approval or decision made for the corresponding matter under this Act.

(3) Subsection (2) applies subject to any other provision of this part.

(4) For subsection (2), an approval under the 1923 Act, former section 56(1)(c) is also taken to be—

(a) for a converted ATP—an approval under section 73; or

(b) for a converted lease—an approval under 152.

928 Existing dealing applications

(1) This section applies if, before 31 December 2004—

(a) an application was made under the 1923 Act for approval of, or consent to, a dealing relating to a 1923 Act petroleum tenure or a licence under that Act that a converted petroleum authority replaced; and

(b) the application had not been decided.

(2) If the dealing is of a type that is a permitted dealing, the application is taken to be an application under this Act for approval of a permitted dealing.

(3) Otherwise, the application lapses.

929 Continuance of fees under 1923 Act

(1) Subsection (2) applies if a fee (the ***existing fee***) for a matter relating to a type of authority under the 1923 Act (the ***corresponding matter***) is imposed under that Act.

(2) Until a fee is prescribed for the corresponding matter for the corresponding type of authority under this Act, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter.

(3) Subsection (2) applies to a petroleum authority whether or not it—

(a) was granted under this Act; or

(b) is a converted petroleum authority.

Not authorised—indicative only

Not authorised—indicative only

(4) Subsection (5) applies if—

(a) under a converted petroleum authority, a fee (also the ***existing fee***) is imposed for a matter relating to the authority; and

(b) the 1923 Act does not provide for a fee for the matter.

(5) Until a fee is prescribed for the corresponding matter for the converted petroleum authority, the existing fee is taken to be the prescribed fee under this Act for the corresponding matter under this Act.

(6) In this section—

fee includes application fee, annual or other rent, licence fee and petroleum royalty.

930 Fees for existing applications

If—

(a) before 31 December 2004, an application had been made for or about an approval, authority, lease, licence or permission under the 1923 Act that becomes, or will, if granted, become a petroleum authority under this Act; and

(b) a fee is prescribed under this Act for the application or the corresponding application under this Act;

the Minister may waive payment of the fee, in whole or part.

931 References in Acts and documents to 1923 Act

(1) Subject to divisions 2 and 5, a reference in an Act or document to—

(a) the 1923 Act is, if the context permits, a reference to this Act; and

(b) a provision of the 1923 Act is, if the context permits, a reference to the corresponding provision of this Act.

(2) However, subsection (1) does not apply if the reference is in relation to a 1923 Act petroleum tenure—

(a) that, on 31 December 2004, does not become a converted petroleum tenure; or

(b) until the tenure becomes a replacement tenure, on or after the commencement of the *Petroleum and Other Legislation Amendment Act 2005*.

Part 4 Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004

Division 1 Provisions for particular existing mining tenements

932 Application of s 6 to particular existing mining tenements

(1) This section applies to a mining tenement in force immediately before the commencement, other than a coal or oil shale mining tenement.

(2) Section 6 applies to the mining tenement as if it had been granted after the commencement.

(3) However, for a mining tenement other than a mining lease, section 6(3) and (6) does not apply for the carrying out of an authorised activity for a petroleum authority in the area of the tenement until 3 months after the commencement.

(4) The Mineral Resources Act, section 403, does not apply for the carrying out of the authorised activity until 3 months after the commencement.

(5) In this section—

commencement means the day section 6 commences.

Not authorised—indicative only

Not authorised—indicative only

933 Deferral of s 115(1) for existing petroleum leases

Section 115(1) does not apply to the holder of a petroleum lease in force on the commencement of this section until 12 months after 31 December 2004.

Division 2 Provision for coal seam gas

934 Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases

(1) If section 364 applies for a petroleum lease and any applicant for the petroleum lease was the holder of a relevant mineral hydrocarbon mining lease, that section applies as if the reference in section 364(2)(b) to—

(a) incidental coal seam gas were a reference to coal seam gas; and

(b) the mine working envelope were a reference to the area of the mineral hydrocarbon mining lease.

(2) In this section—

relevant mineral hydrocarbon mining lease means a mineral hydrocarbon mining lease, the area of which includes the overlapping ATP land to which section 364 applies.

Division 3 Provisions for existing Water Act bores

934A Exemption from, or deferral of, reporting provisions for existing petroleum tenure holders

(1) This section applies to the holder of any petroleum tenure under which petroleum production is carried out before 30 June 2005.

(2) The holder must, within 12 months after 31 December 2004, lodge at the following office a statement about the need to have an underground water impact report for the tenure—

(a) the office of the department for lodging the statement, as stated in a gazette notice by the chief executive;

(b) if no office is gazetted under paragraph (a)—the office of the chief executive.

(3) The chief executive may, after considering the statement, decide whether an underground water impact report is required for the tenure.

(4) The chief executive may require the holder to give the chief executive further information to enable the chief executive to make a decision under subsection (3).

(5) If the chief executive decides an underground water impact report is not required, sections 256 and 267 are taken never to have applied to the holder.

(6) If the chief executive decides an underground water impact report is required, the chief executive may decide a reasonable time by which the report must be lodged.

(7) If, under subsection (6), the chief executive decides a time, section 256 is taken not to apply to the holder until that time.

(8) A decision under this section has no effect until the holder is given notice of it.

934B Make good obligation only applies for existing Water Act bores on or from 31 December 2004

Section 250 only applies in relation to an existing Water Act bore that was in existence on 31 December 2004 or came into existence after that day.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Miscellaneous provisions

935A Deferred application of s 526 for particular petroleum authority holders

If, immediately before 31 December 2004, a petroleum authority holder is lawfully carrying out an authorised activity for the authority on public land, section 526 does not apply to the holder until 6 months after 31 December 2004.

936 Deferral of s 803 for existing petroleum facilities

Section 803 does not apply for a petroleum facility that was operating at any time within 2 weeks before the commencement of that section until 1 year after the commencement.

937 Existing operating plant

(1) Until 1 July 2005, chapter 9, parts 2 and 4, (other than part 4, division 7) do not apply to plant operated, or an activity carried out, under this Act.

(4) Until chapter 9, parts 2 and 4 apply, the following continue to apply to the plant or activity—

(a) the repealed *Gas (Residual Provisions) Act 1965* as in force immediately before the commencement;

(b) the 1923 Act as in force immediately before the commencement.

938 Exclusion of ch 5, pt 3, div 1 for continuance of particular existing road uses

(1) If, immediately before the commencement, a petroleum authority holder was using a public road in the area of the authority for transport relating to a seismic survey or drilling activity, chapter 5, part 3, division 1 does not apply for the use while it continues.

(2) Subsection (1) applies for the use (the ***haulage use***) by a petroleum authority holder of a public road for haulage that relates to—

(a) the transportation of petroleum produced or processed in the area of the authority; or

(b) the construction of a pipeline.

(3) Chapter 5, part 3, division 1 does not apply for the haulage use if—

(a) at any time within 12 months before the commencement, the holder was carrying out the haulage use; and

(b) the type of haulage under the haulage use is the same, or substantially the same, as the type of haulage carried out within the 12 months.

(4) Subsection (1) applies even if the haulage use stops and later starts again.

(4A) A reference to chapter 5, part 3, division 1 in this section is taken to include a reference to the Common Provisions Act, chapter 3, part 3, division 2.

(5) In this section—

commencement means the day section 516 commences.

Part 5 Transitional provisions for Petroleum and Other Legislation Amendment Act 2005

938A Pipeline licences

(1) This section applies for a pipeline licence that became a converted licence under section 916(2)(a).

Not authorised—indicative only

Not authorised—indicative only

(2) On the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the converted licence becomes a point-to-point pipeline licence under this Act.

938B Requests for pipeline licences

(1) This section applies for a request mentioned in section 917 that has not been decided before the day the *Petroleum and Other Legislation Amendment Act 2005* commences.

(2) On the day that Act commences, the request is taken to be a request for a point-to-point pipeline licence under this Act.

938C 1923 Act water bores

(1) Subsection (2) applies for a water bore—

(a) drilled with the permission of the Minister under the 1923 Act, section 86; and

(b) within the area of a converted petroleum tenure.

(2) On and from the day the *Petroleum and Other Legislation Amendment Act 2005* commences, the water bore—

(a) is taken to be a water supply bore under this Act; and

(b) may be transferred without complying with section 288(3).

(3) Subsection (4) applies for a water bore—

(a) drilled with the permission of the Minister under the 1923 Act, section 86; and

(b) within the area of a replacement tenure.

(4) On and from the day the area becomes a replacement tenure, the water bore—

(a) is taken to be a water supply bore under this Act; and

(b) may be transferred without complying with section 288(3).

938D Decommissioning wells and bores

(1) Until 1 July 2005, subsection (2) applies to a well or bore mentioned in section 292 instead of section 292(4)(a).

(2) The well or bore must be plugged and abandoned under the 1923 Act, as the 1923 Act was immediately before the commencement of this section.

Part 6 Transitional provision for Mining and Other Legislation Amendment Act 2007

939 Provision for amendment of s 893

Chapter 15, part 3, division 5, subdivision 1 applies as if the amendment of section 893 under the *Mining and Other Legislation Amendment Act 2007* had commenced on 31 December 2004.

Part 7 Transitional provisions for the Revenue and Other Legislation Amendment Act 2008, part 5

940 Quarter to which post-amended ss 593 and 594 first apply

(1) Post-amended sections 593 and 594 first apply in relation to petroleum produced, disposed of or stored in the quarter ending 30 September 2008.

(2) In this section—

post-amended sections 593 and 594 means sections 593 and 594 as amended by the *Revenue and Other Legislation Amendment Act 2008*, part 5.

quarter see section 592A.

Not authorised—indicative only

Not authorised—indicative only

941 Pre-amended Act applies to certain months

(1) Sections 593 and 594 of the pre-amended Act and the other provisions of the pre-amended Act continue to apply in relation to each month, ending before 1 July 2008, in which petroleum was produced, disposed of or stored.

(2) In this section—

pre-amended Act means this Act as in force before the commencement of the *Revenue and Other Legislation Amendment Act 2008*, part 5.

Part 8 Transitional provision for Mines and Energy Legislation Amendment Act 2008

942 Provision for amendment of s 877

Section 877 applies as if the amendment of that section under the *Petroleum and Other Legislation Amendment Act 2005*, section 105, schedule had never been made.

Part 9 Transitional provisions for Mines and Energy Legislation Amendment Act 2010

943 Definitions for pt 9

In this part—

commencement, for sections 945 and 946, means the day this section commences.

previous, in relation to a stated provision that includes a number, means the provision as in force immediately before the commencement.

944 Continuation of authorisation to carry out particular gas work—gas device (type A)

(1) This section applies—

(a) to a gas work authorisation or an interim gas work authorisation—

(i) in force immediately before the commencement; and

(ii) under which an individual is authorised to carry out gas work in relation to a gas device (type B) under previous section 724(3) (the ***former type B device***); and

(b) if, on or after the commencement, the former type B device is or becomes a gas device (type A).

(2) For this Act, the individual is taken to be authorised, under the gas work authorisation or interim gas work authorisation, to carry out gas work in relation to the gas device (type A) until the earliest of the following to happen—

(a) the day that is 6 months after the commencement;

(b) the day the term of the gas work authorisation or interim gas work authorisation ends;

(c) the day the individual is issued with a gas work licence to carry out gas work in relation to the gas device (type A).

(3) For section 726(1) and (2), the individual is taken to hold a gas work licence to carry out gas work in relation to the gas device (type A) while the individual is authorised under subsection (2) to carry out the gas work.

(4) In this section—

commencement means the day this section commences.

Not authorised—indicative only

Not authorised—indicative only

945 Continuation of authorisation to carry out particular gas work—fuel gas refrigeration device

(1) This section applies to a gas work authorisation or an interim gas work authorisation—

(a) in force immediately before the commencement; and

(b) under which an individual is authorised to carry out gas work in relation to a gas device or type of gas device that on the commencement is a fuel gas refrigeration device.

(2) For this Act, the individual is taken to be authorised, under the gas work authorisation or interim gas work authorisation, to carry out gas work in relation to the fuel gas refrigeration device until the earliest of the following to happen—

(a) the day that is 6 months after the commencement;

(b) the day the term of the gas work authorisation or interim gas work authorisation ends;

(c) the day the individual is issued with a gas work licence to carry out gas work in relation to the fuel gas refrigeration device.

(3) For section 726(1) and (2), the individual is taken to hold a gas work licence to carry out gas work in relation to the fuel gas refrigeration device while the individual is authorised under subsection (2) to carry out the gas work.

946 Application of notice requirement under s 733

Section 733(2) does not apply to a person supplying a gas device until the day that is 3 months after the commencement.

Part 10 Transitional provisions for amendments under Geothermal Energy Act 2010

Division 1 Provisions about mineral (f) pilot tenures

947 Applications for particular petroleum leases

Section 363K applies to an ATP-related application, if—

(a) the application was made before the commencement of this section; and

(b) immediately before the commencement, the application has not been decided; and

(c) the application includes land that is overlapping mineral (f) land or land in the area of MDLA 407.

Division 2 Provisions about land access and compensation

948 Land access code prevails over conditions

If a condition of a petroleum authority is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

949 Existing compensation agreements other than for notifiable road uses

(1) This section applies if immediately before the commencement of this section a compensation agreement under chapter 5, part 5 was in force.

Not authorised—indicative only

Not authorised—indicative only

(2) On the commencement the agreement becomes a conduct and compensation agreement under chapter 5, part 5, division 1.

950 Existing entry notices

(1) This section applies to an entry notice for the carrying out of an authorised activity for a petroleum authority if the notice complied with the entry notice requirements before the commencement of this section.

(2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.

(3) In this section—

entry notice requirements means the requirements under this Act relating to the giving of an entry notice.

951 References to geothermal tenure

Until the *Geothermal Energy Act 2010*, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.

Part 11 Transitional provisions for Gas Security Amendment Act 2011

952 Definition for pt 11

In this part—

amending Act means the *Gas Security Amendment Act 2011*.

953 Application of s 118 to existing applications

Section 118, as amended by the amending Act, applies only to applications made after the commencement of this section.

954 Date of effect of amendment of s 910

Section 910(1)(a)(i), as amended by the amending Act, is taken to have had effect from 31 December 2004.

Part 12 Transitional provision for Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011

956 Particular applications taken to be properly made

(1) This section applies if—

(a) an ATP-related application or petroleum lease application for land was made on or after 17 March 2008; and

(b) under section 307, 308, 335, 336, 346 or 354 as in force before the commencement of this section (each the ***unamended provision***), separate ATP-related applications or petroleum lease applications were required to be made for particular parts of the land; and

(c) separate mining lease applications were not made as required by the unamended provision.

(2) Despite the noncompliance with the requirement, the application is taken to be, and is taken to always have been, an ATP-related application or petroleum lease application for the land made under chapters 2 and 3.

(3) However, subsection (2) applies only to the extent the application does not comply with the unamended provision.

(4) This section applies whether or not the application has been decided at the commencement.

Not authorised—indicative only

Not authorised—indicative only

Part 13 Transitional provisions for Mines Legislation (Streamlining) Amendment Act 2012

Division 1 Preliminary

957 Definitions for pt 13

In this part—

amending Act means the *Mines Legislation (Streamlining) Amendment Act 2012*.

commencement means the commencement of the section in which the term is used.

former, for a provision of this Act, means the provision as in force before the commencement of the section in which the term is used.

Division 2 Transitional provisions for amendments in amending Act commencing on assent

958 Land in a petroleum authority's area taken before the commencement

(1) This section applies if—

(a) land in a petroleum authority's area was taken under a resumption law before the commencement; and

(b) at the commencement, the entity taking the land has not taken action indicating the petroleum authority was extinguished (wholly or partly) when the land was taken.

Examples of action for paragraph (b)—

- serving a copy of the resumption notice for the taking of the land on the petroleum authority holder (in the holder's capacity as the holder of the authority)
- entering into a resumption agreement under the ALA with the petroleum authority holder for the taking of the land
- negotiating, or taking other action relating to, the compensation payable to the petroleum authority holder for the taking of the land
- paying compensation to the petroleum authority holder for the taking of the land
- arranging for the taking of the land to be recorded in the petroleum register against the petroleum authority

(2) The taking of the land did not extinguish (wholly or partly) the petroleum authority or any other petroleum interest relating to the authority.

(3) Subsection (2) does not affect the ending of a petroleum interest (wholly or partly) in any other way, including, for example—

(a) by the entity taking the land acquiring the petroleum interest (wholly or partly) under a separate commercial agreement or other arrangement with the holder of the interest; or

(b) by the petroleum interest holder surrendering the interest (wholly or partly) under this Act.

959 Land in a petroleum authority's area for which notice of intention to resume given before the commencement

(1) This section applies if—

(a) before the commencement, an entity gave a notice of intention to resume for the proposed taking, under a resumption law, of land in a petroleum authority's area; and

(b) at the commencement, the land had not been taken under the resumption law.

Not authorised—indicative only

Not authorised—indicative only

(2) If the land is taken other than by taking or otherwise creating an easement, sections 30AA to 30AD apply in relation to the taking, except that the resumption notice for the taking may provide for the extinguishment of a petroleum interest on the taking even if the notice of intention to resume does not comply with section 30AA(8).

(3) If the land is taken by taking or otherwise creating an easement, section 30AD applies in relation to the taking.

960 Existing water pipeline for petroleum lease

(1) This section applies if, before the commencement, the holder of a petroleum lease had started constructing or operating a water pipeline under former section 110.

(2) Former section 110 continues to apply to the holder of the relevant lease until 1 year after the commencement as if the amending Act had not commenced.

961 Existing written permission to enter land to construct and operate pipeline

(1) This section applies if, before the commencement, a pipeline licence holder has obtained the written permission of the owner of land to enter the land to construct and operate a pipeline the subject of the licence.

(2) Section 399A(2)(b) does not apply to the owner's successors and assigns for the land.

962 Authority to prospect taken to be properly granted

(1) This section applies to a 1923 Act ATP application mentioned in section 889.

(2) An authority to prospect granted under chapter 2, part 1, division 2 before the commencement is taken to be, and to have always been, validly granted as if the closing time for the

call for tenders for the authority was the day before the authority was granted.

963 Grant applications

(1) Sections 910 and 912, as amended under the amending Act, apply to a grant application that was made, but not decided, before the commencement.

(2) In this section—

grant application see section 908.

Division 3 Transitional provisions for amendments in amending Act commencing by proclamation

964 Definition for div 3

In this division—

existing petroleum lease means a petroleum lease that is in effect immediately before the commencement.

965 When holder of an existing petroleum lease may apply to change production commencement day

(1) This section applies to the holder of an existing petroleum lease if the production commencement day for the lease is before 1 February 2014.

(2) The holder may apply under section 175AA in relation to the production commencement day only if the application is made no later than 6 months before the day by which petroleum production under the lease is to start.

(3) This section applies despite section 175AA(c).

Not authorised—indicative only

Not authorised—indicative only

966 Particular requirements for infrastructure reports under s 552A for existing petroleum leases

(1) This section applies to the holder of an existing petroleum lease.

(2) The first infrastructure report lodged after the commencement by the holder under section 552A for an existing petroleum lease must, in addition to the requirements mentioned in section 552B, also state—

(a) details of the authorised activities for the lease carried out since the lease was granted; and

(b) details of infrastructure and works constructed in the area of the lease since the lease was granted, including the location of the infrastructure and works.

967 Unfinished indications about approval of dealing

(1) This section applies if—

(a) a party to a proposed dealing made a request to the Minister under former section 571; and

(b) the Minister had not given the party an indication before the commencement.

(2) The Minister may continue to consider the request and give the indication under former section 571 as if the section had not been repealed by the amending Act.

968 Continuing indications about approval of dealing

(1) This section applies if—

(a) before the commencement, the Minister gave an indication of approval of a proposed dealing under former section 571; and

(b) the indication is current at the commencement.

(2) The indication of approval continues to have effect after the commencement as if former section 571 had not been repealed by the amending Act.

969 Undecided applications for approval of dealing

(1) This section applies if—

(a) a holder of a petroleum authority or interest made an application for approval of a dealing under former section 572; and

(b) the Minister had not granted or refused the approval before the commencement.

(2) Despite the replacement of former chapter 5, part 10 by the amending Act—

(a) the Minister may continue to deal with the application; and

(b) former sections 573 and 574 apply to the Minister's decision about the application.

970 Deciding applications for approval of assessable transfers until commencement of particular provisions

(1) This section applies until the commencement of the *Environmental Protection Act 1994*, chapter 5A, part 4 as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

(2) Former section 573(2)(a) continues in force instead of section 573D(4)(a)(ii), as inserted by the amending Act, for deciding whether to give an approval of an assessable transfer.

971 Uncommenced review of refusal to approve particular dealing

(1) This section applies to a person if—

Not authorised—indicative only

Not authorised—indicative only

(a) before the commencement, the person could have applied under section 817 for an internal review of a decision about a refusal to approve a dealing under former section 573(1); but

(b) the person had not made the application before the commencement.

(2) Despite the amendment of schedule 1 by the amending Act, the person continues to be a person who may apply under section 817, subject to section 818, for the decision.

972 Unfinished review of refusal to approve particular dealing

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

(a) a person applied under section 817 for an internal review about a refusal to approve a dealing under former section 573(1); and

(b) the reviewer had not yet decided the review.

(2) The reviewer may continue, under chapter 12, part 1, to grant a stay of the decision being reviewed and decide the review.

973 Amending work programs

(1) This section applies if—

(a) after the commencement, an authority to prospect holder applies for approval of an amendment of a work program for the authority (a ***work program application***) mentioned in section 59(1)(b); and

(b) before the commencement—

(i) a transfer of a share in the authority was approved under section 573; or

(ii) an application for approval of a transfer of a share in the authority was made under section 572 but had not been decided.

(2) Section 59(2)(d), as amended by the amending Act, applies in relation to the work program application as if a reference—

(a) in section 59(2)(d)(i) to an application under section 573C for approval of an assessable transfer relating to a share in the authority were a reference to an application for approval of a transfer of a share in the authority under former section 572; and

(b) in section 59(2)(d)(ii) to approval of the assessable transfer having been given under section 573D were a reference to the approval of a transfer of a share in the authority having been given under former section 573.

Part 14 Transitional provisions for Fiscal Repair Amendment Act 2012

974 Application of Act to particular unpaid royalty

(1) This section applies if, immediately before 1 October 2012, an amount of petroleum royalty payable by a person to the State is unpaid (the ***unpaid petroleum royalty***).

(2) This Act as in force on 1 October 2012 applies in relation to the unpaid petroleum royalty on and from that day.

(3) For applying section 602 to the unpaid petroleum royalty under subsection (2), the period in section 602(3)(b) is taken to start on 1 October 2012.

975 Remission of late payment fee under s 595

Section 595(5), as in force on 1 October 2012, applies in relation to a fee paid or payable under section 595 before, on or after that date.

Not authorised—indicative only

Not authorised—indicative only

Part 15 Transitional provision for Mining and Other Legislation Amendment Act 2013

976 Existing competitive tenders

(1) Subsection (2) applies in relation to a call for tenders under chapter 2, part 1, if the call has not been decided at the commencement.

(2) Despite section 39(b), the Minister must not use a multiple round process to decide the call.

(3) Subsection (4) applies in relation to a call for tenders under chapter 2, part 2, if the call has not been decided at the commencement.

(4) Despite section 130(b), the Minister must not use a multiple round process to decide the call.

(5) In this section—

multiple round process means a process involving short-listing a group of possible preferred tenderers and inviting them to engage in another round of tendering before appointing a preferred tenderer from that group.

Part 16 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013

977 Definitions for pt 16

In this part—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

978 Continuation of conversion of well

(1) This section applies if, immediately before the commencement, a petroleum tenure holder was converting a petroleum well to a water supply bore under section 283.

(2) On the commencement, previous chapter 2, part 10, division 2 continues to apply to the holder until the well is converted to a water supply bore.

979 Drilling water observation bores or water supply bores

(1) This section applies if immediately before the commencement a person, other than a licensed water bore driller, was drilling a water observation bore or water supply bore under section 282.

(2) On the commencement, previous section 282 continues to apply to the person until the water observation bore or water supply bore is completed.

980 Converting petroleum wells to water supply bores

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

(a) a petroleum tenure holder was converting a petroleum well to a water supply bore under section 283; and

(b) the holder was not converting the well as allowed under section 978.

(2) On the commencement—

(a) the holder is taken to be converting the petroleum well to a water supply bore under new section 283; and

(b) new chapter 2, part 10, division 2 applies.

Not authorised—indicative only

Not authorised—indicative only

(3) In this section—

new chapter 2, part 10, division 2 means chapter 2, part 10, division 2 as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

new section 283 means section 283 as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

981 Statement on approved form under s 288 if bore drilled or well converted before the commencement

(1) This section applies if a petroleum tenure holder or water monitoring authority holder is transferring, under section 288—

(a) a water observation bore or water supply bore drilled under previous section 282; or

(b) a water supply bore converted from a petroleum well under previous section 283.

(2) The requirement under section 288(4)(a) is taken to be satisfied if the holder gives the chief executive a signed notice stating—

(a) if the bore has been drilled under previous section 282—previous section 282 has been complied with for the bore; or

(b) if the bore has been converted from a petroleum well under previous section 283—previous section 283 has been complied with for the bore.

982 Statement on approved form under s 290 if water observation bore drilled before the commencement

(1) This section applies if a petroleum tenure holder or a water monitoring authority holder is transferring, under section 290, a water observation bore drilled under previous section 282.

(2) The requirement under section 290(2) is taken to be satisfied if the holder gives the chief executive a signed notice stating previous section 282 has been complied with for the bore.

Part 17 Transitional provision for Mineral and Energy Resources (Common Provisions) Act 2014

983 Continued appeal right for particular decisions

(1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 823(3), may still appeal against the decision, in compliance with chapter 12, part 2, despite the amendment of schedule 1, table 2 by the Common Provisions Act.

(2) In this section—

previous, for a provision of this Act, means the provision as in force immediately before the repeal of the provision under the Common Provisions Act.

relevant decision means any of the following—

(a) a decision to give a road use direction under previous section 517(1);

(b) the imposition of a condition on entry on public land under previous section 527(1), other than a condition agreed to or requested by the relevant petroleum authority holder;

(c) a refusal to approve an assessable transfer under previous section 573D(1).

984 Existing practice manuals

(1) A practice manual kept under former section 858A continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

Not authorised—indicative only

Not authorised—indicative only

(2) In this section—

former section 858A means section 858 as in force immediately before the commencement of this section.

985 Existing application for data acquisition authority

(1) This section applies to an application for a data acquisition authority under section 176 if, immediately before the commencement of this section, the application had not been decided.

(2) If, under section 178, the Minister decides to grant the data acquisition authority, the Minister may decide the term of the authority ends at a time stated in the authority that is no later than 2 years after the authority takes effect.

(3) This section applies despite section 178(4) of the pre-amended Act.

(4) In this section—

pre-amended Act means this Act as in force immediately before the commencement of this section.

986 Existing application for survey licence

(1) This section applies to an application for a survey licence under section 395 if, immediately before the commencement of this section, the application had not been decided.

(2) If, under section 396, the Minister decides to grant the survey licence, the Minister may decide the term of the licence ends at a time stated in the licence that is no later than 2 years after the licence takes effect.

(3) This section applies despite section 396(4) of the pre-amended Act.

(4) In this section—

pre-amended Act means this Act as in force immediately before the commencement of this section.

Part 18 Transitional provisions for Revenue Legislation Amendment Act 2014

988 Application of assessment and royalty penalty provisions for petroleum royalty payable for period occurring before 1 July 2014

(1) The assessment and royalty penalty provisions apply in relation to petroleum royalty payable by a petroleum producer for a royalty return period or annual return period even if—

(a) the period started before 1 July 2014; and

(b) the producer is liable to pay a royalty penalty amount because of a particular act or omission mentioned in section 601A, and the act or omission occurred before 1 July 2014.

Example—

The Minister may make an assessment, reassessment or default assessment of a royalty-related amount payable by a petroleum producer for a period under chapter 6, part 2, division 3 as in force on and from 1 July 2014, even if the period started before 1 July 2014.

(2) For applying subsection (1) in relation to royalty payable for a royalty return period or annual return period occurring before 1 July 2014, a determination by the Minister of the petroleum royalty payable on lodgement of a royalty return or annual royalty return for the period under this Act, as in force before 1 July 2014, is taken to be an assessment of royalty payable for the period.

(3) Subsection (4) applies if—

(a) the petroleum royalty paid by a petroleum producer for a royalty return period or annual return period that ended before 1 July 2014 is less than the petroleum royalty payable by the producer for the period (a ***royalty shortfall***); and

Not authorised—indicative only

Not authorised—indicative only

(b) before 31 December 2014, the producer gives the Minister notice, in the approved form, of the royalty shortfall, including the amount of the royalty shortfall; and

(c) before the producer gives the Minister the notice, the Minister has not already notified the producer of the royalty shortfall; and

(d) after the commencement, the Minister makes a default assessment or reassessment of the royalty payable by the producer for the period.

(4) The producer is not, under section 601, liable for a royalty penalty amount in relation to the royalty shortfall under the default assessment or reassessment.

(5) In this section—

assessment and royalty penalty provisions means the following provisions—

(a) chapter 6, part 2, divisions 1 and 3;

(b) sections 601 to 601B.

Note—

For the validity of determinations of petroleum royalty made before 1 July 2014, see also section 1001.

989 Application of s 604AB to particular administrators

Section 604AB applies to an administrator appointed before 1 July 2014 as if the required date under section 604AB(1) were the later of the following—

(a) the date 14 days after the commencement; or

(b) the required date for section 604AB(1).

Part 19 Transitional and validation provisions for Water Reform and Other Legislation Amendment Act 2014

990 Application of joint interaction management plan provisions

(1) The pre-amended Act continues to apply in relation to the following for a period of 6 months after the commencement as if the joint interaction management plan provisions had not commenced—

(a) an operating plant, or the area of a petroleum tenure in which an operating plant is situated, mentioned in the pre-amended Act, section 386(1)(a);

(b) an operating plant, the area of a coal or oil shale mining lease (the ***lease area***) in which an operating plant is situated, or an area adjacent to the lease area, mentioned in the pre-amended Act, section 705(a);

(c) an activity under an authority to prospect (csg) carried out in an overlapping area the subject of the authority to prospect (csg), within the meaning of the Common Provisions Act, if coal mining operations under an exploration permit (coal), mineral development licence (coal) or mining lease (coal) within the meaning of that Act are also carried out in the overlapping area.

(2) Despite subsection (1), a principal hazard management plan made under the pre-amended Act, section 705A is to be known as a 'joint interaction management plan' from the date of the commencement.

(3) In this section—

joint interaction management plan provisions means chapter 9, part 4, division 5, subdivision 1, as inserted by the *Water Reform and Other Legislation Amendment Act 2014*.

Not authorised—indicative only

Not authorised—indicative only

pre-amended Act means this Act as in force before the commencement.

990A Requirement for joint interaction management plan by particular date

(1) This section applies in relation to an operating plant, area or activity mentioned in section 990(1) if, on 27 September 2017 and despite the *Mineral and Energy Resources (Common Provisions) Transitional Regulation 2016*, section 9—

(a) a joint interaction management plan has not been made under section 705B in relation to the operating plant, area or activity; and

(b) the reason a joint interaction management plan has not been made under section 705B is that arbitration of a dispute about the plan has been applied for under section 705B(3) or (4).

(2) The principal hazard management plan applying in relation to the operating plant, area or activity is taken to be a joint interaction management plan for section 705B(1)(a).

(3) Subsection (2) applies until a joint interaction management plan is made under section 705B in relation to the operating plant, area or activity.

(4) In this section—

overlapping area see section 705(a).

pre-amended Act means this Act as in force before the commencement of section 990.

principal hazard management plan, applying in relation to an operating plant, area or activity, means—

(a) if a principal hazard management plan applying in relation to the operating plant, area or activity has been made under the pre-amended Act, section 705A—the principal hazard management plan; or

(b) otherwise—the part of the safety management system under this Act applying in relation to the operating plant, area or activity that deals with hazards and risks relating to carrying out activities in an overlapping area.

991 Return of seized things

(1) New section 772 applies in relation to a thing seized under chapter 10, part 1 before the commencement that, on the commencement, is still seized.

(2) If, at any time before the commencement, a thing seized under chapter 10, part 1 was not returned to its owner within the time required under old section 772—

(a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 772; and

(b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 772.

(3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.

(4) In this section—

new section 772 means section 772 as in force from the commencement.

old section 772 means section 772 as in force from time to time before the commencement.

991A Validation of particular orders for costs

(1) This section applies to a costs order purportedly made by an Industrial Magistrates Court before 5 December 2014 in relation to a proceeding for an offence against this Act.

(2) The making of the costs order is, and is taken to always have been, as valid as it would have been if amended section 837 had been in effect from 31 December 2004.

Not authorised—indicative only

Not authorised—indicative only

(3) Anything done under the costs order is, and is taken to always have been, as valid as it would have been if amended section 837 had been in effect from 31 December 2004.

(4) Subsections (2) and (3) have effect despite section 837(3) and the repealed *Industrial Relations Act 1999*, section 319(3), as those provisions were in force from time to time before 5 December 2014.

(5) In this section—

amended section 837 means section 837 as amended by the *Water Reform and Other Legislation Amendment Act 2014*.

costs order means an order awarding a represented party for a proceeding costs of the representation.

Industrial Magistrates Court means an Industrial Magistrates Court under the repealed *Industrial Relations Act 1999*.

represented party, for a proceeding, means a party to the proceeding, or a person ordered or permitted to appear or to be represented by a lawyer, who is represented by a lawyer.

Part 20 Validation provision for Land and Other Legislation Amendment Act 2017

992 Validation of particular appointments

(1) This section applies if, before the commencement, a public service officer was purportedly appointed to any of the following offices (each a ***relevant office***)—

(a) the chief inspector, petroleum and gas under section 735(1)(a);

(b) the deputy chief inspector, petroleum and gas under section 735(1)(b);

(c) an inspector, petroleum and gas under section 735(1)(c);

(d) an authorised officer under section 735(1)(d).

(2) The person is declared to always have been validly appointed to the relevant office.

(3) Anything done or omitted to be done by the person that would have been valid and lawful under this Act had the person been validly appointed to the relevant office is taken to be, and always to have been, valid and lawful.

(4) Without limiting subsection (3), it is declared that evidence obtained by the person in the purported exercise of a power under this Act is taken to be, and always to have been, lawfully obtained.

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

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

(1) This section applies in relation to an operating plant to which chapter 9, part 4, division 5, subdivision 1 applies under section 705 if a petroleum authority relating to the operating plant is an authority to prospect, petroleum lease, or water monitoring authority, under the 1923 Act.

(2) The principal hazard management plan applying in relation to the operating plant is taken to be a joint interaction management plan for the purposes of section 705B(1)(a).

(3) Subsection (2) applies until a joint interaction management plan is made under section 705B in relation to the operating plant.

Not authorised—indicative only

Not authorised—indicative only

(4) The operator of an authorised activities operating plant responsible for making a joint interaction management plan under section 705B must—

(a) make reasonable attempts to consult with the site senior executive, as mentioned in section 705B(1)(b)(i), within 2 months after the commencement; and

(b) if the operator seeks to rely on section 705B(2)—give the site senior executive a copy of the proposed plan, as mentioned in that subsection, within 2 months after the commencement.

(5) In this section—

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

994 Existing condition of petroleum lease no longer applies

(1) This section applies if a condition of a petroleum lease requires the holder to give the chief executive a report detailing infrastructure for the lease.

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

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

(1) This section applies to petroleum mentioned in section 591A(2) that is produced before the commencement.

(2) For section 591A(3)(a), the sum of all periods after 31 December 2004 for the petroleum must include the periods for which, under former section 73(2) or former section 152(2), production testing was authorised to be carried out in relation to the petroleum.

(3) In this section—

former, in relation to a provision, means the provision as in force from time to time before its omission under the Common Provisions Act.

Part 22 Transitional provisions for Land, Explosives and Other Legislation Amendment Act 2019

996 Definition for part

In this part—

former, for a provision of this Act, means as in force before the commencement of the section in which the term is used.

997 Offence proceedings

(1) This section applies if, for a proceeding for an offence against this Act, an act or omission to which the proceeding relates was done or omitted to be done before the commencement.

(2) Former sections 837 and 840 apply to the proceeding.

998 Existing approvals

(1) This section applies if—

(a) before the commencement, a person or body approved a gas device or gas fitting under former section 733(1)(a)(ii); and

(b) immediately before the commencement, the approval had not been cancelled or suspended.

(2) The approval is taken to have been given by the holder of a gas device approval authority.

Not authorised—indicative only

Not authorised—indicative only

999 Persons or bodies approved by the chief inspector

(1) This section applies if—

(a) before the commencement, the chief inspector approved a person or body under former section 733(1)(a) for a particular type of gas device; and

(b) immediately before the commencement, the approval had not been cancelled or suspended.

(2) The approval is taken to be a gas device approval authority until 1 year after the commencement.

1000 Fuel gas delivery networks

(1) This section applies if—

(a) immediately before the commencement—

(i) a supply of fuel gas to or in a container owned or provided by a person was not an LPG delivery network under this Act as in force before the commencement; and

(ii) the place in which the supply was carried out was not an operating plant; and

(b) on the commencement, the supply of fuel gas by the person is a fuel gas delivery network.

(2) Section 670(5) does not apply to the supply of fuel gas by the person until 3 months after the commencement.

Part 23 Transitional provision for Revenue Legislation Amendment Act 2018

1001 Validity of determinations of petroleum royalty made before 1 July 2014

(1) This section applies to a determination of petroleum royalty purportedly made by the Minister under this Act as in force before 1 July 2014.

(2) The determination is taken to have been validly made.

Part 24 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

1002 Definition for part

In this part—

new, for a provision, means as in force from the commencement.

1003 Power to impose, vary or remove condition of authority to prospect

The power under new section 42A to impose a condition on, or vary or remove a condition of, an authority to prospect applies to an authority to prospect whether it was granted before or after the commencement.

Not authorised—indicative only

Not authorised—indicative only

1004 Relinquishment requirements

The requirement under new section 66(2) for the holder of an authority to prospect to relinquish 50% of the original notional sub-blocks of the authority by the end of the relinquishment day applies only if the authority was granted after the commencement.

1005 Existing applications for renewal of authority to prospect

(1) This section applies to an application under section 82 for renewal of an authority to prospect made, but not decided, before the commencement.

(2) If the application does not include all of the information required under new section 45 for a proposed later work program for the renewed authority, the applicant may, within 3 months after the commencement, give the chief executive the information not included.

(3) The proposed later work program provided by the applicant under section 82(1)(d), and any additional information provided by the applicant under subsection (2), is taken to be a proposed later work program for the renewed authority to prospect for new section 84.

(4) New section 84 applies in relation to the application whether or not the applicant provides information under subsection (2).

(5) To remove any doubt, it is declared that, if the applicant does not provide information under subsection (2), the Minister must decide, under new section 84, whether to approve the proposed later work program provided by the applicant under section 82(1)(d) as the later work program for the renewed authority to prospect.

Part 25 Transitional and validation provisions for Revenue and Other Legislation Amendment Act 2019

1006 Rate of petroleum royalty payable for annual return period ending 31 December 2019

(1) This section applies to a petroleum producer in relation to an annual royalty return for the annual return period ending 31 December 2019.

(2) Despite section 590(2), petroleum royalty is payable by the petroleum producer for the annual return period at the rate of 11.25% of the wellhead value of—

(a) for petroleum produced under a petroleum tenure or a 1923 Act petroleum tenure—petroleum disposed of by the petroleum producer during the period; or

(b) otherwise—petroleum produced by the petroleum producer during the period.

(3) To remove any doubt, it is declared that the rate stated in subsection (2)—

(a) applies for the entire annual return period; and

(b) does not prevent a different rate—

(i) being, or having been, prescribed under section 590(2); and

(ii) applying to the petroleum producer for a royalty return period occurring during the annual return period.

(4) This section does not apply in relation to a transitional return, made under section 599(8) of the Act, for the transitional return period ending 31 December 2019.

Not authorised—indicative only

Not authorised—indicative only

1007 Giving of documents by Minister under royalty provisions before commencement

A document purportedly given to a person by the Minister under a royalty provision before the commencement is taken to have been validly given, whether or not a requirement about the giving of the document under this Act as in force before the commencement was complied with.

Part 26 Transitional provisions for Resources Safety and Health Queensland Act 2020

1008 Definitions for part

In this part—

corresponding provision, for a provision of the pre-amended Act, means a provision of this Act that provides for the same, or substantially the same, matter as the provision of the pre-amended Act.

pre-amended Act means this Act as in force before the commencement.

1009 Functions performed and powers exercised by chief executive

A function performed, or power exercised, by the chief executive under a provision of the pre-amended Act, if the context permits, is taken to have been performed, or exercised, by the CEO under the corresponding provision.

1010 References to chief executive

(1) This section applies if—

(a) a provision of the pre-amended Act mentioned the chief executive; and

(b) a corresponding provision mentions the CEO.

(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the chief executive is taken to be a reference to the CEO.

1011 Existing proceedings

(1) This section applies to the following proceedings started before the commencement—

(a) a proceeding for an offence against this Act started by—

(i) the Commissioner for Mine Safety and Health; or

(ii) the chief executive or another appropriately qualified person with the written authorisation of the chief executive;

(b) a proceeding for an injunction, interim injunction, or to rescind or vary an injunction, under the pre-amended Act, started by the Commissioner for Mine Safety and Health;

(c) an appeal against a decision made on a proceeding mentioned in paragraph (a) or (b).

(2) If, immediately before the commencement, the proceeding had not been finally dealt with, on the commencement—

(a) if the proceeding was brought by the Commissioner for Mine Safety and Health and is in relation to a serious offence within the meaning of section 837(8)—the WHS prosecutor becomes a party to the proceeding in place of the commissioner; and

(b) if the proceeding is a proceeding other than a proceeding mentioned in paragraph (a)—the CEO becomes a party to the proceeding in place of the person who started the proceeding.

(3) For a proceeding mentioned in subsection (2)(b), on the commencement or at any time after the commencement, the CEO may authorise in writing another appropriately qualified

Not authorised—indicative only

Not authorised—indicative only

person, including, for example, the WHS prosecutor, to become a party to the proceeding in place of the CEO.

1012 References to department

(1) This section applies if—

(a) a provision of the pre-amended Act mentioned the department; and

(b) a corresponding provision mentions RSHQ.

(2) In a document made under or relating to the provision of the pre-amended Act, if the context permits, a reference to the department is taken to be a reference to RSHQ.

Part 27 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2020

1013 Power to impose or amend condition if changed holder of particular petroleum authorities

The power of the Minister to impose another condition on, or amend a condition of, a petroleum authority under section 80A, 160A, 424A or 455A applies—

(a) whether the authority was granted before or after the commencement; and

(b) only if the change mentioned in section 80A(1), 160A(1), 424A(1) or 455A(1) happens after the commencement.

1014 Restriction on pipeline licence if there is an existing geothermal, GHG or mining lease

Section 400 as in force after the commencement applies in relation to a pipeline licence whether the pipeline licence was granted before or after the commencement.

1015 Restriction on petroleum facility licence if there is an existing mining lease

Section 440 as in force after the commencement applies in relation to a petroleum facility licence whether the petroleum facility licence was granted before or after the commencement.

1016 Conferences with eligible claimants or owners or occupiers started before commencement

(1) This section applies if—

(a) an authorised officer asked parties to attend a conference under section 734C as in force before the commencement; and

(b) immediately before the commencement the conference had not taken place.

(2) The conference must take place under chapter 10, part 1AA as in force immediately before the commencement.

(3) The Common Provisions Act, chapter 3, part 8 does not apply in relation to the conference.

1017 Existing authority to carry out remediation activities

(1) This section applies if, immediately before the commencement, a person was authorised by the chief executive under section 799D to carry out remediation activities in relation to an abandoned operating plant.

(2) The authorisation is taken to have been made under section 799D as in force on the commencement.

Not authorised—indicative only

Not authorised—indicative only

Part 28 Transitional provisions for Royalty Legislation Amendment Act 2020

1018 Definitions for part

In this part—

amending Act means the *Royalty Legislation Amendment Act 2020*.

former, for a provision, means the provision as in force from time to time before the commencement.

post-commencement liability means a liability for petroleum royalty, or tax under the *Taxation Administration Act 2001* relating to petroleum royalty, other than a pre-commencement liability.

pre-commencement liability means a liability for a royalty-related amount arising before the commencement.

1019 Application of Taxation Administration Act 2001 to liability for royalty-related amounts

The *Taxation Administration Act 2001* applies in relation to a liability for petroleum royalty or a royalty-related amount, whether arising before or after the commencement, except to the extent provided in this part.

1020 This Act as revenue law for Taxation Administration Act 2001

(1) This section provides for how the *Taxation Administration Act 2001* applies to this Act, in relation to particular liabilities, acts and omissions, to the extent that this Act is a revenue law under the *Taxation Administration Act 2001*.

Note—

See the *Taxation Administration Act 2001*, section 6(8) and (9).

(2) The following provisions of the *Taxation Administration Act 2001* do not apply in relation to a pre-commencement liability—

(a) part 3;

(b) sections 30 to 33;

(c) part 5, divisions 1 and 2;

(d) section 132.

(3) To remove any doubt, it is declared that the *Taxation Administration Act 2001* applies in relation to an act or omission after the commencement even if the act or omission relates to a pre-commencement liability.

Example—

After the commencement on 1 October 2020, during an audit relating to the annual royalty return period from 1 July 2019 to 30 June 2020, a petroleum royalty payer failed to provide information as required under a notice given under the *Taxation Administration Act 2001*, section 87. The failure to comply with the requirement is an omission after the commencement, even though it relates to a pre-commencement liability.

(4) However, the *Taxation Administration Act 2001*, section 132 does not apply to an act or omission after the commencement relating to a pre-commencement liability.

(5) For the purpose of applying the *Taxation Administration Act 2001*, part 4 in relation to a pre-commencement liability or an act or omission after the commencement relating to a pre-commencement liability—

(a) a reference in the *Taxation Administration Act 2001*, section 41 or 42 to an assessment liability includes a pre-commencement liability; and

(b) a reference in the *Taxation Administration Act 2001*, section 42 to primary tax does not include an amount under a former provision of this Act that is a royalty penalty amount, unpaid royalty interest, civil penalty or fee prescribed by regulation that must accompany a royalty return; and

Not authorised—indicative only

Not authorised—indicative only

(c) a reference in the *Taxation Administration Act 2001*, section 29 to an amount payable under a tax law includes a royalty-related amount under a former provision of this Act; and

(d) a reference in the *Taxation Administration Act 2001*, section 37(1)(a) to a reassessment includes a reassessment, after the commencement, under a former provision of this Act; and

(e) a reference in the *Taxation Administration Act 2001*, section 37(1)(b) to a notice includes a notice given, after the commencement, under a former provision of this Act; and

(f) a reference in the *Taxation Administration Act 2001*, section 46 to a reassessment includes a reassessment, after the commencement, under a former provision of this Act; and

(g) a notice given before the commencement under former section 604AB is taken to have been given under the *Taxation Administration Act 2001*, section 48; and

(h) a notice given before the commencement under former section 604AD is taken to have been given under the *Taxation Administration Act 2001*, section 50.

(6) A reference in the *Taxation Administration Act 2001*, section 131 to an assessment includes an assessment under former chapter 6 and a determination within the meaning given under this Act as in force before 1 July 2014.

(7) Subsection (3) applies subject to subsection (8).

(8) To the extent this Act applies to an act or omission after the commencement relating to a pre-commencement liability, the *Taxation Administration Act 2001*, section 136 applies subject to section 837 of this Act.

(9) If, under this section, a provision of the *Taxation Administration Act 2001* relating to a particular matter applies to this Act and a royalty provision of this Act relates to the same matter, this Act does not apply to the matter.

1021 References in Taxation Administration Act 2001

For the purpose of this part, unless the context otherwise requires—

(a) a reference in the *Taxation Administration Act 2001* to a tax law includes former chapter 6; and

(b) a reference in the *Taxation Administration Act 2001* to a tax law liability includes a liability for a royalty-related amount under a former provision of this Act; and

(c) a reference in the *Taxation Administration Act 2001* to an assessment or reassessment includes an assessment or reassessment under a former provision of this Act; and

(d) a reference in the *Taxation Administration Act 2001* to unpaid tax interest includes unpaid royalty interest under a former provision of this Act; and

(e) a reference in the *Taxation Administration Act 2001* to penalty tax includes a royalty penalty amount under a former provision of this Act; and

(f) a reference in the *Taxation Administration Act 2001* to a civil penalty includes a civil penalty under former chapter 6; and

(g) a reference in the *Taxation Administration Act 2001* to a royalty fee includes a prescribed fee under a former provision of this Act that was required to accompany a royalty return.

1022 Application of Taxation Administration Act 2001, s 38 (Applying amounts to current and future tax liabilities)

An amount relating to a post-commencement liability may be applied under the *Taxation Administration Act 2001*, section 38 as payment for a pre-commencement liability.

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Not authorised—indicative only

1023 Application of Taxation Administration Act 2001, s 138 (Second or subsequent offence)

(1) For applying the *Taxation Administration Act 2001*, section 138 to this Act, the reference in subsection (1)(b) of that section to a further offence is a reference to an offence committed on or after the commencement.

(2) If the *Taxation Administration Act 2001*, section 138(1)(a) applies for an offence against a former provision of this Act that was repealed by the amending Act, the reference in subsection (1)(b) of that section to a further offence against the provision includes a reference to an offence against a provision of this Act or the *Taxation Administration Act 2001* that corresponds to the former provision.

1024 Application of former ch 6, pt 2 (Royalty administration)

(1) Former chapter 6, part 2 and provisions of this Act relating to that part apply to an assessment or reassessment of a pre-commencement liability.

(2) The provisions mentioned in subsection (1) apply as if a reference in the provisions to the Minister were a reference to the revenue commissioner.

1025 Application of particular provisions to reassessment

(1) This section applies if, under this part, former section 599C applies to a reassessment of petroleum royalty.

(2) Despite former section 599C(7), the revenue commissioner must make any assessment or reassessment for a royalty return period that is required under the *Taxation Administration Act 2001*, section 19 for a pre-commencement liability.

1026 Proceedings for particular offences

(1) This section applies in relation to an offence against former section 814, committed by a person before the

commencement, that related to an offence against former section 604F(1), 605(1), 606(1), 607 or 617C(1).

(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 convicted of and punished for the offence, as if the amending Act had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

1027 Revenue commissioner may do particular things

For the purpose of this part, the revenue commissioner may do anything the Minister could do under the former provisions of this Act before the commencement.

1028 Delegations

(1) This section applies if—

(a) immediately before the commencement, a delegation of a function or power from the Minister to a person was in force under this Act; and

(b) under this Act or the *Taxation Administration Act 2001*, the revenue commissioner may delegate the function or power.

(2) The delegation continues to have effect from the commencement as if it had been made by the revenue commissioner.

1029 References to the Minister

In an Act or document, a reference to the Minister in relation to former chapter 6, or a provision relating to former chapter 6, is, if the context permits, taken to be a reference to the revenue commissioner.

Not authorised—indicative only

Not authorised—indicative only

1030 Royalty investigators

(1) This section applies to a person who, immediately before the commencement, held an appointment as a royalty investigator.

(2) The person continues as an investigator under the *Taxation Administration Act 2001* on the same terms of appointment that applied to the person immediately before the commencement.

(3) The identity card held by the person under former section 615 is taken to be an identity card issued under the *Taxation Administration Act 2001*, section 82.

1031 Annual return period starting on 1 July 2020 and ending on 30 June 2021 taken to end on 30 September 2020 for former ch 6

(1) This section applies if a petroleum producer is required to lodge an annual royalty return, under former section 599(2), for an annual return period that starts on 1 July 2020 and ends on 30 June 2021.

(2) For former chapter 6, the annual return period is taken to start on 1 July 2020 and end on 30 September 2020.

1032 Annual return period starting on 1 January 2020 and ending on 31 December 2020 taken to end on 30 September 2020 for former ch 6

(1) This section applies if a petroleum producer is required to lodge an annual royalty return, under former section 599(2), for an annual return period that starts on 1 January 2020 and ends on 31 December 2020.

(2) For former chapter 6, the annual return period is taken to start on 1 January 2020 and end on 30 September 2020.

Part 29 Transitional provision for Coal Mining Safety and Health and Other Legislation Amendment Act 2022

1034 Application of new s 790 to noncompliance action

(1) New section 790 applies in relation to noncompliance action if the event mentioned in section 791(2) or (3) for which the action is taken happens after the commencement.

(2) In this section—

new section 790 means section 790 as in force from the commencement.

Part 30 Transitional provisions for Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Act 2023

1035 Definitions for part

In this part—

amended Act means this Act as in force on the commencement.

amendment Act means the *Gas Supply and Other Legislation (Hydrogen Industry Development) 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.

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transitional period means the period starting on day of the commencement and ending on the day that is 1 year after the commencement.

1036 Existing applications for pipeline licences

(1) This section applies if—

(a) before the commencement, an application was made under former section 407, former section 474 or former section 479 for a pipeline licence; and

(b) immediately before the commencement, the application had not been decided.

(2) This Act, as in force immediately before the commencement, continues to apply in relation to the application as if the amendment Act had not been enacted.

1037 Existing pipeline licences

(1) This section applies to a pipeline licence that was in effect immediately before the commencement.

(2) During the transitional period, this Act as in force immediately before the commencement continues to apply in relation to the pipeline licence as if the amendment Act had not been enacted.

(3) However, the holder of the pipeline licence may apply under new chapter 4, part 6, to state a substance, including, for example, regulated hydrogen under new section 11A, to be transported through the pipeline.

(4) If the pipeline licence is amended to state a substance to be transported through the pipeline—

(a) subsection (2) stops applying in relation to the pipeline licence; and

(b) the amended Act applies in relation to the licence.

(5) This section is subject to section 1038(3).

1038 Notice of substances transported through existing pipeline

(1) This section applies to a holder of a pipeline licence that was in effect immediately before the commencement.

(2) The holder may, during the transitional period, give the chief executive a notice stating each substance that is, when the notice is given, transported through the pipeline.

(3) If the holder gives the chief executive a notice under subsection (2)—

(a) section 1037(2) stops applying in relation to the pipeline licence; and

(b) the amended Act applies in relation to the licence as if each substance stated in the notice were stated in the licence as a substance to be transported through the pipeline.

1039 Existing pipes and systems

(1) This section applies if—

(a) immediately before the commencement, a pipe, or system of pipes, for transporting a substance (an ***existing pipe or system***) was not a pipeline under former section 16; and

(b) on the commencement, the existing pipe or system becomes a pipeline under new section 16 because the substance transported through the pipe or system is prescribed under new section 11A(c).

(2) Despite new sections 16 and 670, the existing pipe or system is not a pipeline or an operating plant under the amended Act.

Not authorised—indicative only

Not authorised—indicative only

Part 31 Transitional provisions for Land and Other Legislation Amendment Act 2024

1040 Undecided applications for renewal of petroleum leases

(1) New section 164(3)(b) applies in relation to an application for the renewal of a petroleum lease made but not decided before the commencement.

(2) In this section—

new section 164(3)(b) means section 164(3)(b) as in force from the commencement.

1041 Undecided applications to amalgamate petroleum leases

(1) New section 170A(3)(b)(iii) applies in relation to an application for the amalgamation of 2 or more petroleum leases made but not decided before the commencement.

(2) In this section—

new section 170A(3)(b)(iii) means section 170A(3)(b)(iii) as in force from the commencement.

1042 Undecided applications to divide petroleum leases

(1) New section 171(3)(c) applies in relation to an application to divide a petroleum lease made but not decided before the commencement.

(2) In this section—

new section 171(3)(c) means section 171(3)(c) as in force from the commencement.

Schedule 1 Reviews and appeals

sections 817(1) and 823(3) and (4)

Table 1Decisions subject to review

Section reference	Description of decision
71A	Decision not to approve further ATP production testing
71B	Decision not to approve further ATP storage testing
150A	Decision not to approve further PL production testing
150C	Decision not to approve further PL storage testing
175G(3)	Refusal to grant application for exemption under section 175E(2)
392BO	Decision about whether proposed provision for safety management system is reasonable
622	Refusal to issue gas quality approval
625(1) or (6)	Cancellation of gas quality approval
643(1)	Prohibition or imposition of conditions on use or operation of meter
646(2)	Decision to give revision notice about measurement scheme
646(3)(b)	Decision about period to comply with revision notice
681(2)	Decision to give revision notice about safety management system
681(3)(b)	Decision about period to comply with revision notice

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Not authorised—indicative only

Section reference	Description of decision
728C	Refusal of application for gas work licence or authorisation
728C	Decision to impose a condition on, or to limit, a gas work licence or authorisation, other than a condition or limitation agreed to or requested by the applicant
731AD	Refusal of application for gas device approval authority
731AD	Decision to impose condition on a gas device approval authority, other than a condition agreed to or requested by the applicant
763	Decision to seize a thing
772(3)(a)	Decision to retain a seized thing
773(1)(c), (d) or (e) or (2)(c), (d) or (e)	Forfeiture of seized thing
780(2)	Decision to give compliance direction
780(2) and 781(1)	Decision about period to remedy contravention or avoid likely contravention the subject of compliance direction
783(2)	Decision to give dangerous situation direction
783(2) and 784(1)	Decision about period to take steps reasonably necessary to prevent, remove or minimise danger the subject of dangerous situation
798	Decision by chief inspector to take proposed noncompliance action for gas work licence, gas work authorisation or gas device approval authority

Table 2Decisions subject to appeal

Section reference	Description of decision	Appeal body
Authorities to prospect		
57	Refusal to approve proposed later work program	Land Court
62	Refusal to approve amendment to work program	Land Court
84	Refusal to renew authority to prospect	Land Court
90	Refusal of application for declaration of potential commercial area	Land Court
93	Refusal of application to extend term of declaration of potential commercial area	Land Court
97	Decision to take proposed action under section 96 for authority to prospect	Land Court
107AE(2)	Refusal to declare amalgamated potential commercial area for authority to prospect	Land Court
Petroleum leases		
120	Decision not to grant a petroleum lease on ATP-related application	Land Court
147	Refusal to approve proposed later development plan	Land Court
148	Deferral of approval of later development plan	Land Court
164	Refusal to renew petroleum lease	Land Court
170F(2)	Refusal to grant amalgamated lease	Land Court
175AC(1)	Decision not to change production commencement day for a petroleum lease	Land Court

Not authorised—indicative only

Not authorised—indicative only

Section reference	Description of decision	Appeal body
175G(3)	Refusal to grant application for suspension under section 175E(1)	Land Court
215	Decision that claimant does not own stored petroleum or prescribed storage gas	Land Court
Water monitoring authorities		
203	Decision to refuse amendment of water monitoring authority or to grant water monitoring authority subject to the applicant's written agreement to the Minister amending the authority in a stated way that the Minister considers appropriate	Land Court
Coordination arrangements		
242	Cancellation of coordination arrangement	Land Court
Licences		
410	Refusal to grant pipeline licence	Land Court
431	Decision to give works direction	Land Court
436(3)	Amendment of pipeline licence condition	Land Court
446	Refusal to grant petroleum facility licence	Land Court
473	Decision to cancel part 5 permission	Land Court
477	Refusal of licence amendment application	Land Court
482	Refusal to renew licence	Land Court
Decisions under chapter 5		

Section reference	Description of decision	Appeal body
488	Decision to require security for petroleum authority other than security in the form and amount prescribed under section 488(2)	Land Court
489	Decision to require increase in total security required to more than the prescribed amount under section 488(2) when the requirement is made	Land Court
578	Refusal to approve surrender of petroleum authority	Land Court
578(3)	Decision to approve partial surrender of petroleum authority subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the authority in a stated way, if the applicant has not agreed in writing to the amendment	Land Court
587(2)	Decision to take action to ensure compliance with a requirement under this Act of a petroleum authority holder, other than action to which the holder has agreed	Land Court
Noncompliance action		
798	Decision to take noncompliance action for petroleum authority	Land Court
798	Decision to take proposed noncompliance action for gas work licence, gas work authorisation or gas device approval authority	industrial court

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Not authorised—indicative only

Table 3Decisions subject to appeal

Section reference	Description of decision	Appeal body
Decisions under Common Provisions Act		
19(2)	decision to refuse to approve a prescribed dealing, or to approve registration of a dealing with conditions	Land Court
23(3)	decision to refuse to give indicative approval, or to give indicative approval with conditions	Land Court
59(2)	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant petroleum authority holder	Land Court
59(7)	variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant petroleum authority holder	Land Court
64(1)	decision to give road use direction	Land Court

Schedule 2 Dictionary

section 9

12-year period, for an authority to prospect, means—

(a) the period of 12 years commencing on the grant of the authority to prospect; or

(b) if it is a renewed authority as mentioned in section 85—the period of 12 years from when the authority to prospect originally took effect.

1923 Act means the *Petroleum Act 1923*.

1923 Act ATP means an authority to prospect under the 1923 Act.

1923 Act lease means a lease under the 1923 Act.

1923 Act petroleum tenure means a 1923 Act ATP or 1923 Act lease.

abandoned operating plant, for chapter 10, part 3, see section 799C.

abandoned site, for chapter 10, part 3, see section 799B.

acceptable level, of risk, see section 700.

access land, for a petroleum authority, see section 502(3).

access rights see section 502(2).

acquired land—

1 Land is *acquired land* if—

(a) it was taken under a resumption law, other than by taking or otherwise creating an easement; and

(b) on the taking—

(i) all petroleum interests relating to the land were extinguished under section 30AA; or

Not authorised—indicative only

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(ii) all 1923 Act petroleum interests under the 1923 Act relating to the land were extinguished under section 124A of that Act.

2 However, land mentioned in paragraph 1 stops being *acquired land* if it is included in the area of a new or renewed petroleum tenure granted under this Act.

additional relinquishment condition see section 62(6).

adjacent lease see section 113(a).

affected land, for chapter 10, part 3, see section 799D(2).

affected party, for a meter, see section 660.

ALA means the *Acquisition of Land Act 1967*.

amalgamated lease, for chapter 2, part 2, division 7, subdivision 1A, see section 170A(1) or 170B(1).

amalgamated potential commercial area, for chapter 2, part 1, division 8, subdivision 2A, see section 107AA.

appeal body see section 823.

appeal period, for a decision, means the period provided for under section 824 for starting an appeal against the decision.

applicant, for chapter 3A, part 2, see section 392AD(a).

application includes a tender in response to a call for tenders.

apply, in relation to making an application, has the meaning affected by section 851AA.

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved form means the form approved under section 858.

arbitration, of a dispute, means arbitration of the dispute under the Common Provisions Act, chapter 5, part 3.

area—

1 The *area*, of a petroleum authority, is the land to which the authority is subject, as recorded in the register.

2 The *area*, of a coal or oil shale mining tenement, is the land to which the tenement is subject.

3 The *area* of a 1923 Act petroleum tenure is the land comprised in the tenure or to which the tenure is subject, as recorded in the register.

area pipeline licence see section 404(1)(a).

assessment criteria, for chapter 3A, see section 392AE(1)(b).

associated water, for a petroleum tenure, see section 185(4).

ATP production testing see section 71A(1).

ATP-related application see section 117(3).

Editor's note—

Schedule 2, definition *auditor-general* was omitted by an uncommenced amendment—see 2024 Act No. 3 s 73 sch 1.

ATP storage testing see section 71B(1).

~~***auditor-general*** means the Queensland Auditor-General under the *Auditor-General Act 2009*.~~

Australian market see section 175B.

Australian market supply condition see section 175A.

authorised activities operating plant, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

authorised activity see section 22.

authorised officer means—

(a) an authorised officer (general); or

(b) an authorised officer (safety and health).

authorised officer (general) means a person who, under section 735, holds appointment as an authorised officer (general).

authorised officer (safety and health) means a person who, under section 735, holds appointment as an authorised officer (safety and health).

authorised person—

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Not authorised—indicative only

(a) for chapter 2, part 10, division 5, see section 294A; or

(b) for chapter 10, part 3, see section 799B.

authority to prospect see section 18(1)(a).

available storage capacity, for a natural underground reservoir, see section 208.

block see the Common Provisions Act, section 11A(1).

board of inquiry means a board of inquiry established under section 709.

brine means saline water with a total concentration of dissolved solids greater than 40,000 milligrams per litre.

call for tenders for—

(a) chapter 2, part 1—see section 35(1); or

(b) chapter 2, part 2—see section 127(1).

capability criteria for—

(a) chapter 2, part 1—see section 43(2); or

(b) chapter 2, part 2—see section 121(3).

causes, for chapter 11, part 1AA, see section 799I(2).

CEO means the chief executive officer of RSHQ.

chief inspector means the person who, under section 735, holds appointment as the chief inspector, petroleum and gas.

closing time, for a call for tenders—

(a) for an authority to prospect—see section 35(2)(f); or

(b) for a petroleum lease—see section 127(2)(c).

coal exploration tenement see section 301(1).

coal mining-CSG operating plant see section 671(3).

coal mining lease see section 301(2).

Coal Mining Safety and Health Act means the *Coal Mining Safety and Health Act 1999*.

coal or oil shale development preference see section 314(3)(b).

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

coal or oil shale mining tenement see section 303.

coal resource authority, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

coal seam gas means petroleum (in any state) occurring naturally—

(a) in association with coal or oil shale; or

(b) in strata associated with coal or oil shale mining.

commercial viability report see section 230.

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

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

competency assessment see section 653(1).

competency assessment notice see section 653(1).

compliance direction see section 780(2).

conditions, of a petroleum authority, see section 20.

conduct, for chapter 11, part 1AA, see section 799I(1).

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

construct, a structure, includes placing the structure.

consultation notice see section 465(1).

consultation period see section 465(2)(c).

consumer, of fuel gas, see section 619.

contiguous, in relation to land, means abutting, with at least 1 side in common.

controller, of a meter, see section 632.

converted petroleum tenure see section 872.

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

coordinated project means a project declared under the State Development Act, section 26, to be a coordinated project.

coordination arrangement means an arrangement under section 234 that, under section 236, has taken effect.

Coordinator-General see the State Development Act, schedule 2.

Coordinator-General's conditions, for a lease or licence or proposed lease or licence for a coordinated project, means the conditions for the lease or licence stated in the Coordinator-General's report for the project.

Coordinator-General's report, for a coordinated project, means—

(a) if an EIS was prepared under the State Development Act for the project—the Coordinator-General's report for the EIS prepared under the State Development Act, section 34D; or

(b) if an IAR was prepared under the State Development Act for the project—the Coordinator-General's report for the IAR prepared under the State Development Act, section 34L.

costs, incurred by the State, includes the cost of services that the State provides for itself.

CSG assessment criteria see section 305(1)(b).

CSG statement see section 305(1)(a).

CSG water means underground water brought to the surface of the earth in connection with exploring for or producing coal seam gas under a petroleum tenure.

current owner, of stored petroleum or a prescribed storage gas, see section 220(2).

dangerous situation means a situation relating to petroleum or fuel gas, a geothermal activity or a GHG stream in which an inspector reasonably believes an imminent risk of material

harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

dangerous situation direction see section 783(2).

data acquisition activities see section 176(1).

data acquisition authority see section 18(1)(c).

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

deferral agreement see the Common Provisions Act, section 44.

development plan, for a petroleum lease, see section 24.

development plan criteria see section 141.

distribution pipeline see section 16A.

distribution system means a system of distribution pipelines and meters and other equipment used in the supply of fuel gas to more than 1 consumer within a gas market, but does not include—

(a) pipelines connected from the exit point of a meter installed for a consumer's premises; or

(b) appliances or equipment connected to pipelines mentioned in paragraph (a).

domestic purposes includes irrigating a garden, not exceeding 0.25ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

drill—

1 *drill* includes to bore.

2 *drill*, a water supply bore, includes excavating the bore.

eligible person see section 19.

employer, for an operating plant or gas work, for chapter 11, part 1AA, see section 799I(1).

end date—

Not authorised—indicative only

Not authorised—indicative only

(a) for ATP production testing or PL production testing for a petroleum well means—

(i) if the petroleum well intersects a natural underground reservoir containing coal seam gas, shale gas, tight gas or basin-centred gas and the testing relates to petroleum produced from the reservoir—the day that is 13 months from when the testing first starts; or

(ii) otherwise—the day that is 6 months from when the testing first starts; or

(b) for ATP storage testing or PL storage testing, means the day that is 6 months from when the testing first starts.

end points, for a pipeline, see section 16(3).

enforceable undertaking see section 841E(1).

enter a place includes the exercise of the rights in relation to the place under section 854.

Environmental Protection Act means the *Environmental Protection Act 1994*.

exceptional event, affecting an authority to prospect—

(a) means an event that—

(i) affects the carrying out of authorised activities under the authority; and

(ii) is beyond the control of the holder of the authority; and

(iii) could not reasonably have been prevented by the holder of the authority; and

(b) does not include a takeover bid under the Corporations Act, chapter 6 made or proposed by another entity in relation to the holder of the authority.

excluded land for—

(a) an authority to prospect—means excluded land for the authority, decided under section 99; or

(b) a petroleum lease—means excluded land for the lease, decided under section 169.

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

executive safety manager, of an operating plant, see section 687.

existing user, of a natural underground reservoir, see section 205(1) and (6).

exploration project means a project involving 2 or more authorities to prospect that have a unifying exploration purpose.

exploring, for petroleum, see section 14.

external review, for a decision, means a review of the decision by QCAT under the QCAT Act.

fee includes tax.

formed road means any existing road or track on private or public land used, or that may be reasonably be capable of being used, to drive or ride motor vehicles.

former tenure or authority, for an abandoned operating plant, for chapter 10, part 3, see section 799B.

fuel gas see section 11(2).

fuel gas delivery network—

(a) means the supply of fuel gas to or in a container owned or provided (other than by being sold) by a person (a ***product supplier***) to a consumer or another person in the business of distributing fuel gas; and

(b) includes an activity that is part of or incidental to the supply mentioned in paragraph (a) that is carried out by the product supplier or the product supplier's agent.

Examples of fuel gas delivery networks—

- the delivery of cylinders of fuel gas to a consumer or to a distributor

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- the filling and storing of cylinders of fuel gas, including cages of 4kg and 8.5kg exchange cylinders
- the bulk delivery of fuel gas to a container
- the filling of a tanker for delivery of fuel gas
- the maintenance of containers and storage equipment used for the supply of fuel gas
- the dispensing of fuel gas to vehicles

fuel gas refrigeration device means a device—

(a) that is used or designed or intended for use for refrigeration; and

(b) for which fuel gas is the refrigerant.

gas device means a gas device (type A) or a gas device (type B).

gas device approval authority see section 18(1)(j).

gas device (type A) see section 724(1).

gas device (type B) see section 724(3).

gas fitting means—

(a) any component of a gas device (type A) or gas device (type B); or

(b) a thing used, or designed or intended for use—

(i) with a gas device (type A) or gas device (type B); or

(ii) in the supply, distribution or consumption of fuel gas.

gasification or retorting product see section 10(2).

gas quality agreement see section 621(3).

gas quality approval see section 622(1).

gas related device means any of the following—

(a) a gas device;

(b) a gas fitting;

(c) a gas system;

(d) a container of fuel gas;

(e) a device used to transfer fuel gas from one container to another~~.~~;

(f) a device used to produce fuel gas.

gas system means a system that—

(a) consists of the following things in any combination—

(i) gas devices;

(ii) containers;

(iii) fittings;

(iv) flues;

(v) pipes;

(vi) devices that produce fuel gas; and

(b) either—

(i) is used with, or designed or intended to be used with, fuel gas; or

(ii) is used, or designed or intended to be used, to produce fuel gas for use in gas devices.

Examples of gas systems—

- an existing system of interconnected domestic gas devices installed in a dwelling house
- a gas device, and associated pipe work, added to an existing system
- a gas-fired industrial boiler installation
- pipes and fittings installed without a gas device in a dwelling house
- an electrolyser, and associated pipe work, used to produce fuel gas for use in a gas device

~~***gas system*** means a system that —~~

~~(a) consists of the following things in any combination —~~

~~(i) gas devices;~~

~~(ii) containers;~~

~~(iii) fittings;~~

~~(iv) flues;~~

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~~(v) pipes; and~~

~~(b) is used with, or designed or intended to be used with, fuel gas.~~

~~*Examples of gas systems*~~

~~1 an existing system of interconnected domestic gas devices installed in a dwelling house~~

~~2 a gas device, and associated pipe work, added to an existing system~~

~~3 a gas-fired industrial boiler installation~~

~~4 pipes and fittings installed without a gas device in a dwelling house~~

gas work, for chapter 9, part 6 and chapter 11, part 1AA, see section 725.

gas work authorisation see section 18(1)(i).

gas work licence see section 18(1)(h).

generic SMS see section 675A.

Geothermal Act see section 3A(1)(a).

geothermal activity see the Geothermal Act, section 18.

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

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

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

geothermal production see the Geothermal Act, section 14.

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

GHG means greenhouse gas.

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

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

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

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

GHG storage Act see section 3A(1)(a).

GHG storage activity see the GHG storage Act, section 23.

GHG stream see the GHG storage Act, section 12.

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

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

give, a document to the Minister, chief executive or chief inspector, has the meaning affected by section 851AA.

holder—

(a) of a petroleum authority, other than the following, means each person recorded as its holder in the register—

(i) a data acquisition authority;

(ii) a water monitoring authority that relates to only 1 petroleum tenure; or

(b) of a data acquisition authority, means the person mentioned in section 182; or

(c) of a water monitoring authority, means the person who is its holder as provided for under section 201; or

(d) of a gas work licence, gas work authorisation or gas device approval authority, means each person recorded as its holder in the register the chief inspector keeps under section 734AB.

holder submissions, for chapter 3A, see section 392AH(1).

hydrogen gas blend see section 11(3).

incident means an event that—

(a) involves, or involves a level of risk of, death of, or injury to, a person or damage to property that is not at an acceptable level; and

(b) happens—

(i) at an operating plant, for any reason; or

(ii) at another place and is associated with a gas related device or the presence, or perceived likely presence, of petroleum or fuel gas or a prescribed storage gas.

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incidental coal seam gas see the Mineral Resources Act, section 318CM(2).

independent viability assessment see section 232(2).

individual lease, for chapter 2, part 2, division 7, subdivision 1A, see section 170A(1) or 170B(1).

information-giver, for chapter 3, part 8, see section 390(1).

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

(a) the decision, and the reasons for it;

(b) all rights of review or appeal under this Act;

(c) the period in which any review or appeal under this Act must be started;

(d) how rights of review or appeal under this Act are to be exercised;

(e) that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

information statement, for chapter 3A, see section 392AE(1)(a).

initial development plan requirements see section 137.

initial work program requirements see section 46.

inspector means a person who under section 735 holds appointment as an inspector, petroleum and gas, or who is—

(a) the chief inspector; or

(b) the deputy chief inspector, petroleum and gas.

interfere with includes tamper with.

internal review application, for chapter 12, see section 817(1).

internal review decision see section 820(1)(b).

joint interaction management plan, for chapter 9, part 4, division 5, subdivision 1, see section 705B(1)(a).

land includes—

(a) land covered by Queensland waters; and

(b) subterranean land.

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

later development plan requirements see section 142.

later work program requirements see section 50.

legacy borehole means a bore or well that—

(a) was drilled for the purpose (the ***original purpose***) of—

(i) exploration or production of mineral or petroleum resources; or

(ii) informing the exploration or production of mineral or petroleum resources; and

(b) is no longer used for the original or another purpose.

licence see section 18(4).

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

lodge, a document, has the meaning affected by section 851AA.

low impact, for an activity or infrastructure, means the activity or infrastructure—

(a) is of low impact on the environment; and

(b) is of low impact for land disturbance; and

(c) does not adversely affect the carrying out of an authorised activity, or is not likely to adversely affect the carrying out of a future authorised activity, under a mineral (f) tenure.

LPG see section 11(1).

make submissions has the meaning affected by section 851AA.

mandatory condition, of a petroleum authority, see section 20(2).

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

MDLA 407 see section 363B(2).

measurement, of petroleum or fuel gas, see section 634.

measurement scheme, for a meter, see section 633.

meter see section 631.

mineral (f) see the *Mineral Resources Act 1989*, section 6(2)(f).

mineral (f) pilot tenure see section 363B(1).

mineral (f) production tenure see section 363A.

mineral (f) tenure see section 363A.

mineral hydrocarbon mining lease see the *Mineral Resources Act 1989*, section 739.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means—

(a) a mining tenement under the Mineral Resources Act; or

(b) a tenure held from the State under another Act about mining, under which tenure the holder is authorised to carry out mining under the Mineral Resources Act or a related mineral or energy resources activity.

mining lease see Mineral Resources Act, schedule 2.

mining lease application period see section 323(2).

mining safety legislation see the Common Provisions Act, schedule 2.

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

natural underground reservoir see section 13.

negotiation notice, for chapter 2, part 6, division 3, subdivision 4, see section 221(2)(a).

new authorities, for an application to divide an authority to prospect, see section 103(1).

new leases, for an application to divide a petroleum lease, see section 171(1).

noncompliance action means action of a type mentioned in section 790.

non-owner lease see section 221(1).

notice means a written notice.

notice of claim see section 213(1).

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

(a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the notice of intention to resume under the ALA; or

(b) otherwise—the notice, however named, required to be given under the resumption law to notify persons of the proposed taking.

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

occupier, of a place, means a person—

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

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

offender, for chapter 13, part 2, division 2, see section 841AB.

official means the Minister, the chief executive, the CEO, the WHS prosecutor, the commissioner, an inspector or an authorised officer.

oil shale see section 300.

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oil shale exploration tenement see section 302(1).

oil shale mining lease see section 302(2).

old lease, for chapter 2, part 6, division 3, see section 212(1)(a).

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

operate, a pipeline or petroleum facility—

1 *Operate*, a pipeline or petroleum facility, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline or facility.

2 For paragraph 1, using a pipeline includes using it to transport—

(a) generally—petroleum, fuel gas, produced water, prescribed storage gases or regulated hydrogen; and

(b) if, under section 402, the right to operate the pipeline is extended to include another substance—the other substance.

operate, for operating plant that, under section 670(6) and (7), consists of joint authorised activities, means to carry out all or any of the activities.

operating plant see section 670.

operator, of an operating plant, see section 673.

original authority, for an application to divide an authority to prospect, see section 103(1).

original decision see section 817(1).

original lease, for an application to divide a petroleum lease, see section 171(1).

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

1 The *original notional sub-blocks*, of an authority to prospect, are the sub-blocks included in the area of the authority at the following time—

(a) if the authority was granted before 31 December 2004—immediately after its first renewal after that day;

(b) if the authority was granted on or after 31 December 2004—when it was originally granted.

2 However, the *original notional sub-blocks* do not include any sub-block completely within the area of a petroleum lease or 1923 Act lease.

overlapping area, for chapter 9, part 4, division 5, subdivision 1, see section 705(a).

overlapping ATP land, for a petroleum lease, see section 341(2)(c).

overlapping authority application period, for chapter 3A, part 2, division 5, see section 392AN(2).

overlapping authority (geothermal or GHG), for chapter 3A, see section 392AB.

overlapping authority priority, for chapter 3A, see section 392AH(3)(b)(i).

overlapping lease, for chapter 3A, see section 392AN(2).

overlapping mineral (f) land see section 363B(1).

overlapping permit, for chapter 3A, see section 392AI(1)(a).

overlapping tenure, for chapter 3A, see section 392AD(c).

overview, of a safety management system, means a summary of how each aspect of a safety management system mentioned in section 675(1) is, or will be, addressed by the system.

owner—

1 An *owner*, of land, means each person as follows in relation to the land—

(a) for freehold land—a registered owner;

(b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;

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(c) if an estate in fee simple of land is being purchased from the State—the purchaser;

(d) for a public road—the public road authority for the road;

(e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;

(f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;

(g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;

(h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the ***NCA***) for which there are trustees—

(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;

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

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

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

(l) for land under the *Land Act 1994* for which there are trustees—a trustee;

(m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;

(n) for land vested in the Minister administering the *Education (General Provisions) Act 2006*—that Minister;

(o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;

(p) for land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest;

(q) for any of the following land under the NCA—the State—

(i) a national park (scientific);

(ii) a national park;

(iii) a national park (Aboriginal land);

(iv) a national park (Torres Strait Islander land);

(v) a forest reserve.

2 Also, a mortgagee of land is the *owner* of land if—

(a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or

(b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.

3 The *owner*, of a thing that has been seized under this Act, includes a person who would be entitled to possession of the thing had it not been seized.

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4 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

ownership relinquishment notice see section 223(3)(b).

part 5 permission see section 463.

penalty tax see the *Taxation Administration Act 2001*, section 58(1).

petroleum see section 10.

petroleum authority see section 18(2).

petroleum discovery includes a discovery of a natural underground reservoir that has, or is likely to have, commercial storage potential under this Act.

petroleum facility see section 17.

petroleum facility land, for a petroleum facility licence, see section 439.

petroleum facility licence see section 18(1)(g).

petroleum interest means—

(a) a petroleum authority; or

(b) a right existing under, or in relation to, a petroleum authority.

petroleum lease see section 18(1)(b).

petroleum producer includes—

(a) for petroleum produced under this Act—the petroleum tenure holder who produces it or for whom it is produced; or

(b) for petroleum produced under the 1923 Act—the authority to prospect holder or petroleum lease holder under that Act who produces it or for whom it is produced; or

(c) for petroleum that is incidental coal seam gas mined under the Mineral Resources Act, section 318CM—the coal or oil shale mining lease holder who mines it or for whom it is mined; or

(d) for petroleum that is coal seam gas mined under a mineral hydrocarbon mining lease—the coal or oil shale mining lease holder who mines it or for whom it is mined.

petroleum royalty means petroleum royalty imposed under section 590.

petroleum tenure see section 18(3).

petroleum well—

1 A *petroleum well* is a hole in the ground made or being made by drilling, boring or any other means—

(a) to explore for or produce petroleum; or

(b) to inject petroleum or a prescribed storage gas into a natural underground reservoir; or

(c) through which petroleum or a prescribed storage gas may be produced.

2 For item 1, a prescribed storage gas is produced when it is recovered or released to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.

3 A *petroleum well* includes the casing for the well and any wellhead for the well attached to it.

4 To remove any doubt, it is declared that a *petroleum well*does not include any of the following—

(a) a water injection bore;

(b) a water observation bore;

(c) a water supply bore;

(d) an existing Water Act bore;

(e) a seismic shot hole or shallow hole drilled to work out a geological structure.

PGPLR means Prospective Gas Production Land Reserve.

PGPLR land means the part of the area of a petroleum tenure to which an Australian market supply condition applies.

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pipeline see section 16.

pipeline land, for a pipeline licence, see section 399.

pipeline licence see section 18(1)(f).

place includes land.

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

PL production testing see section 150A(1).

PL storage testing see section 150C(1).

point-to-point pipeline licence see section 404(1)(b).

potential commercial area, for an authority to prospect, means an area declared under section 90 to be a potential commercial area for the authority.

power station means a power station under the *Electricity Act 1994*.

pre-closure report see section 261(1).

preference decision see section 319(2).

prescribed incident see section 706(1).

~~***prescribed incidents*** see section 706(1)(a).~~

prescribed odour, for fuel gas, see section 627.

prescribed quality, for fuel gas, see section 620(1).

prescribed storage gas see section 12.

prevent includes each of the following—

(a) hinder;

(b) obstruct.

private land—

1 *Private land* is—

(a) freehold land, including Aboriginal land under the *Aboriginal Land Act 1991* and Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*; or

(b) an interest in land less than fee simple held from the State under another Act.

2 However, land is not private land to the extent of an interest in any of the following relating to the land—

(a) a mining interest;

(b) a petroleum authority or 1923 Act petroleum tenure;

(c) a GHG authority;

(d) a geothermal tenure;

(e) an occupation right under a permit under the *Land Act 1994*.

3 Also, land owned by a public land authority is not private land.

produced, for petroleum, see section 15.

produced water see section 15A.

production commencement day, for a petroleum lease, means—

(a) the day stated under section 123(3)(c) for the lease; or

(b) if the day mentioned in paragraph (a) has been changed under section 175AC—that day as changed from time to time under section 175AC.

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

proposed user, of a natural underground reservoir, see section 209(1).

provision of an authority under this Act, means a provision of the authority, as defined under section 21.

public land means land other than—

(a) private land; or

(b) to the extent an interest in any of the following relates to the land—

(i) a mining interest;

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(ii) a petroleum authority or 1923 Act petroleum tenure;

(iii) a GHG authority;

(iv) a geothermal tenure;

(v) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

(a) for a public road—the road authority for the road; or

(b) if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or

(c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road means an area of land that—

(a) is open to, or used by, the public; and

(b) is developed for, or has as one of its main uses—

(i) the driving or riding of motor vehicles; or

(ii) pedestrian traffic; and

(c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

(a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or

(b) for another public road—the local government having the control of the road.

publish, a notice, means to publish it in any of the following ways—

(a) in a journal published by the department or under the Minister's authority;

(b) in another publication considered appropriate by—

(i) generally—the Minister; or

(ii) if the subject of the notice relates to safety—the chief inspector;

(c) on the department's web site on the internet;

(d) by placing it on a public notice board, established and maintained by the department, at—

(i) the department's head office; and

(ii) other places the chief executive considers appropriate.

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

Queensland Government website means a website with a URL that contains 'qld.gov.au', other than the website of a local government.

reasonably believes means to believe on grounds that are reasonable in the circumstances.

reasonably suspects means to suspect on grounds that are reasonable in the circumstances.

recipient, for chapter 3, part 8, see section 390(1).

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

regulated hydrogen see section 11A.

relevant arrangement, for chapter 2, part 2, see section 121(2)(b).

relevant environmental authority, for a petroleum authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the petroleum authority that are environmentally relevant activities under the Environmental Protection Act.

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relevant environmental condition, for a petroleum authority, means a condition of any relevant environmental authority for the petroleum authority.

relevant land, for a petroleum lease application, means the land the subject of the application.

relevant lease, for a coordination arrangement or proposed coordination arrangement, see section 234(1).

relevant official, for noncompliance action, see section 789(2).

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

relevant tenure or authority, for chapter 10, part 3, see section 799B.

relinquishment condition—

1 Generally, the *relinquishment condition*, for an authority to prospect is the *relinquishment condition* under section 65(1).

2 However if chapter 15, part 3, division 2 applies, and the authority is an authority to which section 878 or 879 applies, the *relinquishment condition* for the authority is the *relinquishment condition* under that section.

3 The *relinquishment condition* for a lease is the *relinquishment condition* under section 329(2).

relinquishment day, for an authority to prospect, see section 64A.

relinquishment requirements, for an authority to prospect, means the requirements, including the relinquishment condition, applying under chapter 2, part 1, division 4, subdivision 2 about how much, and when, any part of the area of the authority to prospect must be relinquished.

remedial powers see section 580(2).

remediation activity, for chapter 2, part 10, division 5, see section 294A.

remediation activity—

(a) for chapter 2, part 10, division 5—see section 294B; or

(b) for chapter 10, part 3—see section 799CA.

replacement tenure see section 908.

report means a written report.

reprisal see section 708C.

required information, for chapter 5, part 7, division 1, subdivision 3, see section 549.

requirements for grant see section 120(1).

resource management decision see section 392AK.

resumption law—

(a) means a law that provides for the compulsory acquisition of land, including, for example, the following—

(i) the ALA, including as applied by another law providing for an entity to take land under the ALA as if the entity were a constructing authority under the ALA;

Examples of other laws for subparagraph (i)—

- *Electricity Act 1994*, section 116
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 53AY

(ii) the *Land Act 1994*, chapter 5, part 3, division 3;

(iii) sections 456 to 458 of this Act;

(iv) the *Queensland Reconstruction Authority Act 2011*, section 99;

(v) the State Development Act, section 82 or 125;

(vi) the *Transport Planning and Coordination Act 1994*, section 25 or 26; but

(b) does not include the *Land Act 1994*, chapter 5, part 3, divisions 1 and 2.

Not authorised—indicative only

Not authorised—indicative only

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

(a) if the land is taken under the process stated in the ALA (whether the land is taken under the ALA or another resumption law)—the gazette resumption notice under the ALA for the taking; or

(b) otherwise—the instrument giving effect to the taking.

revenue commissioner means the commissioner under the *Taxation Administration Act 2001*.

reviewer see section 817(3).

royalty fee see the *Taxation Administration Act 2001*, schedule 2.

royalty provision, of this Act, means a provision of this Act that is a revenue law under the *Taxation Administration Act 2001*.

royalty-related amount means any of the following amounts—

(a) an amount of petroleum royalty;

(b) a civil penalty under section 594 or other penalty tax;

(c) a royalty fee under the *Taxation Administration Act 2001*;

(d) unpaid tax interest under the *Taxation Administration Act 2001*.

royalty return see section 592A(2).

royalty return period means the period, prescribed by regulation, for which a royalty return is required to be lodged.

RSHQ means the statutory body called Resources Safety and Health Queensland established under the *Resources Safety and Health Queensland Act 2020*, section 5.

safety management system—

1 A safety management system, for an operating plant, is—

(a) the system made under section 674 as in force from time to time; and

Note—

If chapter 9, part 4, division 5, subdivision 1 applies for an operating plant, the safety management system under section 674 must include a joint interaction management plan.

(b) an auditable documented system that forms part of an overall management system for the plant.

2 If the plant has stages, a reference to the term includes the parts of the safety management system developed for each stage.

safety requirements see section 669.

satisfies, the capability criteria, for—

(a) chapter 2, part 1—see section 43(3); or

(b) chapter 2, part 2—see section 121(4).

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

senior officer, of an employer for an operating plant or gas work, for chapter 11, part 1AA, see section 799I(1).

service provider, for an affected party, see section 661.

service provider test, for a meter, see section 662(1).

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).

share, of a petroleum authority, means any interest held by a person as a holder of the authority in all of the area of the authority.

site safety manager means a site safety manager appointed under section 692 or any operator mentioned in section 694.

site senior executive, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

special amendment see section 107A.

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special criteria for—

(a) chapter 2, part 1—see section 35(2)(h)(iii); or

(b) chapter 2, part 2—see section 127(2)(e)(iii).

specific purpose mining lease means a mining lease that, under the Mineral Resources Act, section 234(1)(b), is granted for a purpose other than mining.

stage, of an operating plant, see section 672.

standard operating procedures, for an operating plant, is a documented way of working, or an arrangement of facilities, at the plant to achieve an acceptable level of risk.

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

State Development Act means the *State Development and Public Works Organisation Act 1971*.

stated pipeline licence incidental activity see section 403(3).

stock purposes means watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used.

storage agreement see section 205(1) and (5).

storage capacity, of a natural underground reservoir, means the measure of its potential to store petroleum or a prescribed storage gas.

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

sub-block see the Common Provisions Act, section 11A(2).

submission means a written submission.

submission period, for chapter 3, part 2, see section 314(2).

supply—

1 *Supply* means to supply by way of business.

2 The term includes each of the following—

(a) give or sell;

(b) agree, attempt or offer to give or sell;

(c) advertise to give or sell;

(d) cause or permit to be given or sold;

(e) give away or swap.

survey licence see section 18(1)(e).

take, in relation to land, includes acquire.

takeover condition see section 413(1).

tank means a pressure vessel to which AS 1210 'Pressure vessels' (1997) applies.

tender security, for a tender under chapter 2, part 1 or 2, means an amount given by the relevant tenderer as security for the tender.

tolerance for error, for a meter, see section 635.

transfer, of a petroleum well, water injection bore, water observation bore or water supply bore, see section 285(2).

underground gasification activity means an activity on a coal or oil shale mining tenement or a petroleum authority relating to—

(a) the exploration for, and testing of, coal or oil shale to be used for the production of mineral (f); or

(b) the production, processing, refining, storage or transportation of mineral (f).

underground water see the Water Act, schedule 4.

underground water obligations, of a petroleum tenure holder, means—

(a) the holder's underground water obligations under the Water Act, chapter 3; and

(b) any other obligation under the Water Act, chapter 3 with which the holder is required to comply, if failure to comply with the obligation is an offence against that Act.

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

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

underground water rights, for a petroleum tenure, see section 185(2)(a).

usual relinquishment see section 66(3).

validation test, for a meter, see section 666(2).

Water Act means the *Water Act 2000*.

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

water injection bore means—

(a) a bore to inject water or brine into a part of a geological formation or structure that is suitable to store water or brine; or

(b) a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water injection bore.

water licence means a licence under the Water Act.

water monitoring activity see section 187(2).

water monitoring authority see section 18(1)(d).

water observation bore—

1 A *water observation bore* is a bore to monitor water levels and includes—

(a) a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water observation bore; and

(b) a water monitoring bore under the Water Act.

2 A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

***water supply bore*—**

1 A *water supply bore* includes a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water supply bore.

2 A reference to a water supply bore includes its casing, wellhead and any other works constructed in connection with the bore.

wellhead means the casing head, and includes any casing hanger or spool, or tubing hanger, and any flow control equipment up to and including the wing valves.

wet geothermal production means geothermal production by the extraction of hot water from a subartesian basin.

WHS prosecutor see the *Work Health and Safety Act 2011*, schedule 2, section 25.

worker, at a place, means a person who is employed or contracted to carry out work at the place, whether or not the work is gas work.

***worker*—**

(a) in relation to an operating plant or gas work, for chapter 11, part 1AA, see section 799I(1); or

(b) at a place, means a person who is employed or contracted to carry out work at the place, whether or not the work is gas work.

work program, for an authority to prospect, see sections 23 and 45(1).

work program (activities-based) see section 45(2).

work program amendment provisions means chapter 2, part 1, division 3, subdivision 6.

work program criteria see section 49(2).

work program (outcomes-based) see section 45(3).

works direction see section 431(2).

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