



Queensland

# Geothermal Exploration Act 2004

Reprinted as in force on 25 March 2005

Reprint No. 1

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This Act is reprinted as at 25 March 2005. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 40)
- omit the enacting words (s 42A)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

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Queensland

# Geothermal Exploration Act 2004

## Contents

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		Page
<b>Chapter 1</b>	<b>Introduction</b>	
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	9
2	Commencement . . . . .	9
3	Purpose of Act . . . . .	9
<b>Part 2</b>	<b>Application of Act</b>	
4	Act binds all persons . . . . .	10
5	Application of Act to land covered by water . . . . .	10
6	Relationship with Mineral Resources Act 1989 . . . . .	11
7	Relationship with petroleum legislation . . . . .	11
8	Act does not affect other rights or remedies. . . . .	12
<b>Part 3</b>	<b>Interpretation</b>	
9	Definitions. . . . .	12
10	Graticulation of earth's surface into blocks and sub-blocks . . . . .	12
<b>Chapter 2</b>	<b>State ownership of geothermal energy</b>	
11	State ownership of geothermal energy. . . . .	13
12	Geothermal energy reservation in land grants . . . . .	13
13	Prohibition on geothermal exploration without permit . . . . .	14
15	Geothermal exploration permit does not create an interest in land . . . . .	14
<b>Chapter 3</b>	<b>Tender process</b>	
<b>Part 1</b>	<b>Preliminary</b>	
16	Operation of ch 3 . . . . .	15
<b>Part 2</b>	<b>Calls for tenders</b>	
<b>Division 1</b>	<b>Calling for tenders</b>	
17	Power to call for tenders. . . . .	15
18	Area requirements for tender release area. . . . .	16

---

19	Changes to excluded land do not affect existing permits . . . . .	17
<b>Division 2</b>	<b>Tendering</b>	
20	Right to tender . . . . .	17
21	Requirements for making tender . . . . .	17
22	Requirements for proposed work program . . . . .	18
23	Right to terminate call for tenders . . . . .	19
24	Amending tenders . . . . .	19
<b>Part 3</b>	<b>Submissions by affected parties</b>	
25	Right of affected person to make submissions . . . . .	20
<b>Part 4</b>	<b>Deciding tenders</b>	
26	Deciding whether to grant permit . . . . .	20
27	Restriction on removal of approved tenderer . . . . .	21
28	Criteria for deciding whether to grant permit . . . . .	22
29	Power to impose tenure conditions . . . . .	23
30	Requirement to obtain relevant authority, licence or approval . . .	23
31	Restrictions on grant . . . . .	23
32	Grant of permit . . . . .	24
33	Term of permit . . . . .	24
34	Notice to unsuccessful tenderers . . . . .	24
<b>Chapter 4</b>	<b>Geothermal exploration permits</b>	
<b>Part 1</b>	<b>Rights under geothermal exploration permits</b>	
35	Geothermal exploration . . . . .	25
36	Geothermal exploration rights may be exercised by authorised persons . . . . .	25
37	Access to permit area . . . . .	26
38	No obstruction of access right . . . . .	26
39	Taking, interfering with and using water for geothermal exploration . . . . .	27
39A	Taking samples in geothermal exploration . . . . .	27
39B	Ownership of samples taken in geothermal exploration . . . . .	27
<b>Part 2</b>	<b>Mandatory conditions</b>	
40	Operation of pt 2 . . . . .	28
41	Compliance with agreed specific objectives . . . . .	28
42	No unauthorised activities . . . . .	28
43	Annual rent and interest . . . . .	29
44	Notice of significant change in membership of permit holder or holding company . . . . .	29
45	No obstruction of other access rights . . . . .	29

---

46	Improvement restoration . . . . .	29
47	Obligation to remove equipment and plant . . . . .	30
48	Notice of change of address for service . . . . .	30
49	Reporting . . . . .	31
49A	Public release of required information . . . . .	31
49B	Chief executive may use required information . . . . .	32
50	Notice of significant discovery . . . . .	32
51	Compliance with directions . . . . .	32
52	Conditions imposed under a regulation . . . . .	32
<b>Part 3</b>	<b>Security</b>	
53	Power to use security . . . . .	33
54	Notice of claim on security . . . . .	33
55	Replenishment of security . . . . .	34
55A	Replacement of security . . . . .	34
55B	Security not affected by change in permit holder . . . . .	35
56	Retention of security . . . . .	35
<b>Part 4</b>	<b>Amendments, deferrals, cancellation, surrenders and transfers</b>	
<b>Division 1</b>	<b>Applications</b>	
<b>Subdivision 1</b>	<b>General provisions</b>	
57	Right to apply . . . . .	36
58	Deciding application . . . . .	37
<b>Subdivision 2</b>	<b>Additional provisions for amendment of tenure conditions</b>	
59	Making application . . . . .	38
60	Deciding application . . . . .	38
<b>Subdivision 3</b>	<b>Additional provisions for deferral of agreed specific objective</b>	
61	Making application . . . . .	38
62	Deciding application . . . . .	39
<b>Subdivision 4</b>	<b>Additional provisions for deferral of giving of reports and samples</b>	
63	Making application . . . . .	39
64	Deciding application . . . . .	40
<b>Subdivision 5</b>	<b>Additional provisions for surrenders</b>	
65	Making application . . . . .	40
66	Deciding application . . . . .	40
<b>Subdivision 6</b>	<b>Additional provisions for transfers</b>	
67	Transfer only by application . . . . .	41

---

68	Additional requirements for making application . . . . .	41
69	Deciding application . . . . .	42
70	Steps after approval . . . . .	42
<b>Division 2</b>	<b>Amendment and cancellation by Minister or chief executive</b>	
<b>Subdivision 1</b>	<b>Amendment and cancellation powers</b>	
71	Chief executive's power to correct error . . . . .	42
72	Minister's power to amend permit area or tenure conditions . . . .	42
73	Grounds for amending tenure condition . . . . .	43
74	Grounds for reducing permit area . . . . .	43
75	Minister's power to cancel or suspend . . . . .	44
76	Grounds for suspension . . . . .	45
<b>Subdivision 2</b>	<b>General procedure for amendment, cancellation and suspension by Minister</b>	
77	Application of sdiv 2 . . . . .	45
78	Notice of proposed action . . . . .	46
79	Minister may seek submissions from others . . . . .	46
80	Considering submissions . . . . .	47
81	Decision on proposed action . . . . .	47
<b>Subdivision 3</b>	<b>Immediate suspension</b>	
82	Power of and procedure for immediate suspension . . . . .	47
83	Grounds for immediate suspension . . . . .	48
<b>Chapter 5</b>	<b>Access</b>	
<b>Part 1</b>	<b>Embargoed land</b>	
84	Minister's power to decide embargoed land . . . . .	49
85	Effect of embargoed land for permit . . . . .	49
86	Release of embargoed land . . . . .	50
<b>Part 2</b>	<b>Restricted land</b>	
87	Requirements for access to restricted land . . . . .	50
88	Provisions for access consent . . . . .	52
89	Power of tribunal to give or vary access consent . . . . .	52
<b>Part 3</b>	<b>Notice of entry</b>	
90	Application of pt 3 . . . . .	53
91	Requirement for notice of entry . . . . .	53
92	Waiver by chief executive of requirement . . . . .	53
93	Waiver by landholder or native title body of requirement . . . . .	54
94	Requirements for notice of entry . . . . .	54
95	Expiry of notice of entry . . . . .	55

---

96	Requirement to give chief executive copy of notice of entry. . . . .	55
<b>Part 4</b>	<b>Access after permit ceases or permit area reduced</b>	
97	Entry authority to comply with requirement after permit ceases or area reduced . . . . .	56
<b>Part 5</b>	<b>Public roads</b>	
<b>Division 1</b>	<b>Preliminary</b>	
97A	Significant projects excluded from div 1 . . . . .	57
97B	What is a notifiable road use . . . . .	57
<b>Division 2</b>	<b>Notifiable road uses</b>	
97C	Notice of notifiable road use. . . . .	58
97D	Directions about notifiable road use . . . . .	59
97E	Obligation to comply with road use directions . . . . .	60
<b>Division 3</b>	<b>Compensation for notifiable road uses</b>	
97F	Liability to compensate public road authority . . . . .	60
97G	Compensation agreement . . . . .	61
97H	Deciding compensation through tribunal . . . . .	61
97I	Criteria for decision . . . . .	62
97J	Tribunal review of compensation . . . . .	62
97K	Compensation to be addressed before carrying out notifiable road use . . . . .	63
97L	Compensation not affected by change in administration or holder . . . . .	64
<b>Chapter 6</b>	<b>Damage and compensation</b>	
98	Duty to avoid damage. . . . .	64
99	Notice of damage . . . . .	64
100	Right to compensation . . . . .	65
101	How compensation may be claimed. . . . .	66
<b>Chapter 7</b>	<b>Miscellaneous provisions</b>	
<b>Part 1</b>	<b>Directions</b>	
102	Direction to ease landholder concerns. . . . .	67
103	Direction to close exploration bore . . . . .	67
104	Compliance with direction to close exploration bore . . . . .	68
105	Direction to survey . . . . .	69
106	Direction to give statement of financial and technical resources . . . . .	69
107	Direction to give samples . . . . .	69
108	Direction to give additional information for requirement under Act . . . . .	70

<b>Part 2</b>	<b>Appeals</b>	
109	Who may appeal . . . . .	70
110	Period to appeal . . . . .	70
111	Starting appeal . . . . .	71
112	Stay of operation of decision . . . . .	71
113	Hearing procedures . . . . .	71
114	Tribunal's powers on appeal . . . . .	72
<b>Part 3</b>	<b>Proceedings</b>	
<b>Division 1</b>	<b>Offence proceedings</b>	
115	Offences under Act are summary . . . . .	72
116	Statement of complainant's knowledge . . . . .	73
117	Allegations of false or misleading matters . . . . .	73
<b>Division 2</b>	<b>Evidentiary provisions for proceedings</b>	
118	Application of div 2 . . . . .	73
119	Appointments and authority . . . . .	73
120	Signatures . . . . .	73
121	Other evidentiary aids . . . . .	74
<b>Part 4</b>	<b>The geothermal register</b>	
122	Chief executive must keep register . . . . .	75
123	Maintaining register . . . . .	75
124	Access to register . . . . .	76
<b>Part 5</b>	<b>Transfers in relation to bores</b>	
125	What is the transfer of a bore . . . . .	76
126	Transfer of bore to permit holder . . . . .	76
127	Transfer of exploration bore from permit holder to landholder or mining interest holder . . . . .	77
128	Transfer of exploration bores from permit holder or former permit holder to the State . . . . .	78
129	Effect of transfer to the State . . . . .	79
130	Notice to regulator under Water Act 2000 of transfers to landholder . . . . .	79
<b>Part 6</b>	<b>Delegations</b>	
131	Delegation by Minister . . . . .	80
132	Delegation by chief executive . . . . .	80
<b>Part 7</b>	<b>Other miscellaneous provisions</b>	
132A	Application of petroleum safety provisions to geothermal exploration . . . . .	80



---

133	Giving of documents or samples to the Minister or chief executive . . . . .	81
133A	Dealing with application that is not a properly made application . . . . .	81
134	Additional information may be required about application . . . . .	82
135	False or misleading information . . . . .	82
136	Recovery of unpaid amounts . . . . .	83
137	Tribunal may award costs . . . . .	83
138	Approved forms . . . . .	83
139	Regulation-making power . . . . .	83
<b>Schedule</b>	<b>Dictionary</b> . . . . .	<b>84</b>
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	91
2	Date to which amendments incorporated . . . . .	91
3	Key . . . . .	91
4	Table of reprints . . . . .	92
5	List of legislation . . . . .	92
6	List of annotations . . . . .	93



# **Geothermal Exploration Act 2004**

[as amended by all amendments that commenced on or before 25 March 2005]

## **An Act to enable and facilitate exploration for geothermal energy, and for other purposes**

### **Chapter 1 Introduction**

#### **Part 1 Preliminary**

##### **1 Short title**

This Act may be cited as the *Geothermal Exploration Act 2004*.

##### **2 Commencement**

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

##### **3 Purpose of Act**

The purpose of this Act is to do the following—

- (a) manage access to the State's geothermal resources for the benefit of all Queenslanders;
- (b) encourage and facilitate the efficient and responsible exploration for the State's geothermal resources;
- (c) provide an effective and efficient regulatory system for geothermal exploration;
- (d) enhance knowledge of the State's geothermal resources;
- (e) ensure geothermal exploration is carried out in a way that minimises land use conflict;



## **6 Relationship with Mineral Resources Act 1989**

- (1) This Act does not limit or otherwise affect the power under the *Mineral Resources Act 1989* to grant or renew a mining tenement under that Act over land in the area of a geothermal exploration permit.
- (2) However, if the mining tenement is a prospecting permit, mineral development licence or exploration permit, an activity can not be carried out under the tenement if—
  - (a) carrying out the activity adversely affects the carrying out of geothermal exploration under this Act; and
  - (b) the geothermal exploration has already started.<sup>1</sup>

## **7 Relationship with petroleum legislation**

- (1) This Act does not limit or otherwise affect the following powers in relation to land in the area of a geothermal exploration permit—
  - (a) the power under the *Petroleum Act 1923* to grant or renew an authority to prospect or petroleum lease under that Act;
  - (b) the power under the *Petroleum and Gas (Production and Safety) Act 2004* (the **P&G Act**) to grant a petroleum authority under that Act.
- (2) However, an activity mentioned in subsection (3) can not be carried out if carrying out the activity adversely affects the carrying out of geothermal exploration under this Act and the geothermal exploration has already started.
- (3) For subsection (2) the activity is an authorised activity—
  - (a) for an authority to prospect under any of the Acts; or
  - (b) for a water monitoring authority under the P&G Act; or
  - (c) for a data acquisition authority under the P&G Act; or

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<sup>1</sup> For restrictions relating to the granting of mining claims and mining leases over land in the area of a geothermal exploration permit, see the *Mineral Resources Act 1989*, sections 51 (Land for which mining claim not to be granted) and 248 (Applicant must obtain consent or views of existing authority holders).

- (d) for a pipeline licence under the P&G Act carried out on land that, under that Act, is pipeline land for the licence.

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

- (1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

## **Part 3 Interpretation**

### **9 Definitions**

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

### **10 Graticulation of earth's surface into *blocks* and *sub-blocks***

- (1) For identifying areas of land for this Act, the surface of the earth is taken to be divided into *blocks* and *sub-blocks*.
- (2) The blocks are the parcels of land contained within each—
  - (a) 2 meridians of longitude 5 minutes apart; and
  - (b) 2 parallels of latitude 5 minutes apart.

- (3) Each block is divided into 25 sub-blocks each being bounded by 2 meridians of longitude 1 minute apart and 2 parallels of latitude 1 minute apart.
- (4) Each block and sub-block must be identified in the way approved by the chief executive.

## **Chapter 2      State ownership of geothermal energy**

### **11      State ownership of geothermal energy**

- (1) All geothermal energy on or below the surface of any land in the State is, and is taken always to have been, the property of the State.
- (2) To remove any doubt, it is declared that—
  - (a) a person does not acquire any property in geothermal energy merely because the person discovers it or discovers geothermal material from which geothermal energy may be extracted; and
  - (b) subsection (1) applies whether or not the land is freehold or other land.
- (3) This section applies despite any other Act, grant, title or other document.

### **12      Geothermal energy reservation in land grants**

- (1) This section applies to each grant under another Act of a right relating to land.
- (2) This section applies whether the grant was made before or after the commencement of this section.
- (3) The grant is taken to contain a reservation to the State of—
  - (a) all geothermal energy on or below the surface of the land; and

- (b) the exclusive right do the following in relation to the land—
  - (i) authorise, under the provisions of this Act, persons to carry out exploration for geothermal energy;
  - (ii) authorise persons to carry out any activity related to the exploration for, or extraction of, geothermal energy;
  - (iii) regulate, under this Act, the exploration for, or extraction of, geothermal energy.
- (4) In this section—
 

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

### **13 Prohibition on geothermal exploration without permit**

A person must not carry out geothermal exploration unless—

- (a) a geothermal exploration permit for the exploration is in force; and
- (b) the person may, under section 35,<sup>2</sup> carry out the exploration.

Maximum penalty—1 500 penalty units.

### **15 Geothermal exploration permit does not create an interest in land**

The granting of a geothermal exploration permit does not create an interest in any land.

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<sup>2</sup> Section 35 (Geothermal exploration)



## Chapter 3 Tender process

### Part 1 Preliminary

#### 16 Operation of ch 3

- (1) This chapter provides for a process for the granting of geothermal exploration permits by competitive tender.
- (2) A geothermal exploration permit can only be granted under this chapter.

### Part 2 Calls for tenders

#### Division 1 Calling for tenders

#### 17 Power to call for tenders

- (1) The Minister may invite tenders for a geothermal exploration permit for an area of land (a *call for tenders*).
- (2) The land the subject of a call for tenders is the *tender release area*.
- (3) A call for tenders must be gazetted and state each of the following—
  - (a) the tender release area;
  - (b) the closing time for the call;
  - (c) the place at which tenders must be made;
  - (d) that any person as follows (an *affected person*) in relation to land in the tender release area may make submissions to the Minister about the call for tenders—
    - (i) a landholder of the land;
    - (ii) a person who has an interest in the land;

- (iii) a local government whose local government area includes the land;
- (iv) a native title body for the land;
- (v) a person who has a mining interest in the land;
- (e) the place at which submissions under paragraph (d) must be made;
- (f) details about any of the following that are likely to impact significantly on geothermal exploration in the tender release area—
  - (i) proposed tenure conditions that may apply to any permit granted;<sup>3</sup>
  - (ii) minimum requirements for any proposed work program;
- (g) what parts of the tender release area will, if the permit is granted, be embargoed land for the permit;<sup>4</sup>
- (h) any other specific requirements to which the tender may be subject.

## **18 Area requirements for tender release area**

- (1) This section applies if the Minister is deciding a tender release area.<sup>5</sup>
- (2) The area must not include the following land (*excluded land*)—
  - (a) land in a forest reserve or protected area under the *Nature Conservation Act 1992*;
  - (b) other land, or a stated type of land, prescribed under a regulation.
- (3) The area may include a part of a sub-block (a *residual sub-block*) only if the part is the result of the non-inclusion of excluded land.

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3 See section 29 (Power to impose tenure conditions).

4 See section 84 (Minister's power to decide embargoed land).

5 See also section 84 (Minister's power to decide embargoed land).

- (4) The area must not be more than 200 sub-blocks or residual sub-blocks, in any combination.
- (5) The area must not include sub-blocks or residual sub-blocks—
  - (a) that consist entirely of embargoed land; or
  - (b) in the area of an existing geothermal exploration permit.

## **19 Changes to excluded land do not affect existing permits**

- (1) This section applies if—
  - (a) a geothermal exploration permit is granted; and
  - (b) the excluded land for tender release areas changes after the grant.
- (2) To remove any doubt, it is declared that the change does not affect the area of the permit.

## **Division 2 Tendering**

### **20 Right to tender**

- (1) Any person may, under section 21, tender for a proposed geothermal exploration permit for all or part of the tender release area stated in a call for tenders.<sup>6</sup>
- (2) However—
  - (a) a tender can not be made after the closing time for the call; and
  - (b) a tender for only part of the tender release area must be for whole sub-blocks or residual sub-blocks.

### **21 Requirements for making tender**

- (1) A tender for a proposed geothermal exploration permit must—

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<sup>6</sup> See however section 31 (Restrictions on grant).

*Geothermal Exploration Act 2004*

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- (a) be made to the Minister in the approved form; and
  - (b) be lodged at the place stated in the call for tenders; and
  - (c) describe the area of the proposed permit; and
  - (d) include a proposed work program that complies with section 22; and
  - (e) meet any requirements stated in the relevant call for tenders; and
  - (f) state the financial and technical resources the tenderer proposes to commit to geothermal exploration under the proposed permit; and
  - (g) state the tenderer's access to relevant financial and technical resources; and
  - (h) state—
    - (i) the tenderer's address for service; and
    - (ii) the person to whom service of notices under this Act on the tenderer or the holder of the proposed permit may be given; and
  - (i) be accompanied by the fee prescribed under a regulation.
- (2) The area described under subsection (1)(c) can not include land not within the tender release area for the call for tenders.

**22 Requirements for proposed work program**

- (1) For section 21(1)(d), a proposed work program must—
- (a) identify for each year of the proposed geothermal exploration permit—
    - (i) the proposed specific objectives for the year; and
    - (ii) the means by which it is proposed to achieve the proposed specific objectives; and
    - (iii) an estimate of the cost of the proposed means; and
  - (b) demonstrate that it is appropriate for the proposed area of the permit; and

- (c) include evidence that the tenderer has access to the financial and technical resources necessary to carry out the proposed work; and
  - (d) meet any minimum requirements stated in the relevant call for tenders.
- (2) The proposed specific objectives must—
- (a) be reasonably achievable before the end of the year for which each objective is proposed; and
  - (b) be able to be achieved in a way that can be clearly demonstrated; and
  - (c) require the permit holder to—
    - (i) carry out efficient and responsible geothermal exploration; and
    - (ii) enhance knowledge of the State's geothermal resources.
- (3) In this section—
- year* of a work program means each period of 12 months starting on the day, or the anniversary of the day, the geothermal exploration permit takes effect.

## **23 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 geothermal exploration permit 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.

## **24 Amending tenders**

A tenderer for a geothermal exploration permit may, by a notice to the Minister, amend the tender at any time before the closing time for the relevant call for tenders.

## **Part 3**                      **Submissions by affected parties**

### **25**      **Right of affected person to make submissions**

- (1) An affected person for land in a tender release area for a call for tenders may make submissions to the Minister about the call for tenders.
- (2) The submissions must—
  - (a) state—
    - (i) the name, address and contact details for the affected person; and
    - (ii) the land the subject of the submissions; and
    - (iii) details of any issue relating to the call for tenders the affected person wishes the Minister to consider; and
  - (b) be made—
    - (i) at the place stated in the call for tenders; and
    - (ii) before the closing time for the call.
- (3) The submissions must relate to all or part of the tender release area.
- (4) Submissions made under this section are *properly made submissions* for the call for tenders.

## **Part 4**                      **Deciding tenders**

### **26**      **Deciding whether to grant permit**

- (1) The Minister must, after the closing time for a call for tenders, consider all tenders made in response to the call and decide—
  - (a) if there is only 1 tender—whether to grant a geothermal exploration permit to the tenderer over all or part of the land applied for; or

- (b) if there is more than 1 tender, whether to grant a geothermal exploration permit to 1 or more of the tenderers over all or part of the land applied for;<sup>7</sup> or
  - (c) not to grant a geothermal exploration permit to any tenderer.
- (2) However—
- (a) before the Minister makes a decision under subsection (1), the Minister must consider all properly made submissions for the call for tenders; and
  - (b) the Minister can not decide to grant a tenderer a geothermal exploration permit unless the tenderer is an eligible person; and
  - (c) the Minister can not grant more than 1 geothermal exploration permit over the same area.
- (3) If there is more than 1 tenderer, the Minister may use any process to make the decision under subsection (1) the Minister considers appropriate, including, for example, a process appointing a preferred tenderer.
- (4) In this section—
- eligible person*, to hold a geothermal exploration permit, means—
- (a) an adult who is not an insolvent under administration; or
  - (b) a company or a registered body under the Corporations Act, other than a company or a registered body that is an externally-administered corporation under that Act; or
  - (c) a government owned corporation; or
  - (d) the State; or
  - (e) a local government.

## **27 Restriction on removal of approved tenderer**

If the Minister has, under section 26(3), appointed a preferred tenderer, the Minister may cancel the appointment only if the

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<sup>7</sup> See also section 84 (Minister's power to decide embargoed land).

Minister has given the preferred tenderer a reasonable opportunity to be heard in relation to the cancellation.

## **28 Criteria for deciding whether to grant permit**

- (1) The matters the Minister must consider in making the decision under section 26 include whether—
  - (a) the granting of the permit is in the interests of the State; and
  - (b) the tenderer is seeking the permit to genuinely carry out geothermal exploration under the permit.
- (2) In considering whether the grant is in the interests of the State, the Minister must have regard to—
  - (a) the extent to which the tenderer is capable of carrying out geothermal exploration under the permit, having regard to the tenderer's access to financial and technical resources; and
  - (b) the tenderer's history of compliance with this Act or other legislation related to resource exploration of the State or elsewhere, of which the Minister is aware.
- (3) For subsection (2)(a), the Minister may have regard to—
  - (a) if the tenderer is a corporation—whether any action has been taken by or against it or any holding company of the tenderer that may result in it becoming an externally-administered body corporate; or
  - (b) if the tenderer is an individual—whether any action has been taken by or against the individual that may result in the individual becoming an insolvent under administration; or
  - (c) the tenderer's existing and proposed commitments of financial and technical resources to resource exploration in the State or elsewhere.
- (4) The matters mentioned in this section are the *suitability criteria*.
- (5) The suitability criteria do not limit the matters the Minister may have regard to in deciding whether to grant the permit.



**29 Power to impose tenure conditions**

- (1) The Minister may, in deciding to grant a geothermal exploration permit, impose conditions (*tenure conditions*) on the permit that are not inconsistent with the mandatory conditions.
- (2) However, a tenure condition can not be imposed if it—
  - (a) relates to the management of environmental impacts; or
  - (b) authorises unlawful environmental harm as defined under the *Environmental Protection Act 1994*.
- (3) Before imposing a tenure condition under this section, the Minister must consider all properly made submissions for the call for tenders.

**30 Requirement to obtain relevant authority, licence or approval**

The Minister may, before deciding whether to grant a geothermal exploration permit, require the tenderer to obtain a relevant licence, approval or authority under another Act.

*Examples—*

- An environmental authority for an environmentally relevant activity under the *Environmental Protection Act 1994* the carrying out of which is authorised under this Act.
- A water entitlement under the *Water Act 2000* that is needed to carry out an activity authorised under this Act, other than under section 39.<sup>8</sup>

**31 Restrictions on grant**

If the Minister decides to grant the permit, it must not be granted unless—

- (a) the annual rent for the first year of the permit has been paid; and
- (b) the tenderer has given the State security for the permit in the form and amount prescribed under a regulation; and

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8 Section 39 (Taking, interfering with and using water for geothermal exploration)

- (c) the tenderer has agreed in writing to the tenure conditions and the term of the permit as decided by the Minister;<sup>9</sup> and
- (d) the Minister and the tenderer have agreed about the specific objectives for the permit; and
- (e) if the Minister has made a requirement under section 30—the requirement has been complied with.

### **32 Grant of permit**

- (1) This section applies only if the Minister decides to grant a geothermal exploration permit and any restrictions under section 31 do not apply or have ceased to apply.
- (2) The Minister is taken to have granted the permit on the first day of the next month.
- (3) The chief executive must—
  - (a) to record the permit—create and keep in the geothermal register an instrument for the permit in the approved form; and
  - (b) give the permit holder a copy.

### **33 Term of permit**

- (1) The term of the permit is the term decided by the Minister.
- (2) However, the term of the permit must not be for more than 5 years after it is granted.

### **34 Notice to unsuccessful tenderers**

If the Minister decides not to grant a geothermal exploration permit to a tenderer, the chief executive must, as soon as practicable, give the tenderer a notice of the decision.<sup>10</sup>

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<sup>9</sup> For the term, see section 33 (Term of permit).

<sup>10</sup> See also the *Judicial Review Act 1991*, section 32 (Request for statement of reasons).

## Chapter 4      Geothermal exploration permits

### Part 1            Rights under geothermal exploration permits

#### 35      Geothermal exploration

- (1) A permit holder may, subject to this Act and the conditions of the permit, carry out geothermal exploration in any part of the area of the permit to which access is provided under chapter 5.<sup>11</sup>
- (2) However, if land in the area of the permit is also subject to a mining interest, geothermal exploration can not be carried out on the land if—
  - (a) carrying out the exploration adversely affects the carrying out of an activity under the mining interest; and
  - (b) the activity under the mining interest has already started.
- (3) Also, if a bore in the area of the permit is being used by someone else under another Act, the bore may be used by the holder only if, under chapter 7, part 5,<sup>12</sup> control of the bore is transferred to the permit holder.

#### 36      Geothermal exploration rights may be exercised by authorised persons

- (1) Section 35 also applies for any of the following persons (an *authorised person* for the permit) acting within the scope of the person's authority from the holder—
  - (a) if the holder is a corporation—its officers and employees;

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11 Chapter 5 (Access)

See, in particular, sections 85 (Effect of embargoed land for permit) and chapter 5, part 2 (Restricted land).

12 Chapter 7, part 5 (Transfers in relation to bores)

- (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).
- (2) The authority may be express, or implied from—
- (a) the nature of the relationship between the authorised 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.

### **37 Access to permit area**

Subject to chapter 5,<sup>13</sup> a permit holder or an authorised person for the permit may enter the area of the permit to exercise the right under section 35(1).<sup>14</sup>

### **38 No obstruction of access right**

A person who—

- (a) has a right to enter the area of a geothermal exploration permit; and
- (b) is not the permit holder or an authorised person for the permit;

must not unreasonably obstruct the permit holder or the authorised person from exercising the right under section 37.

Maximum penalty—100 penalty units.

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13 Chapter 5 (Access)

14 See also section 97 (Entry authority to comply with requirement after permit ceases or area reduced).

**39 Taking, interfering with and using water for geothermal exploration**

- (1) A permit holder or an authorised person for the permit may take, interfere with and use underground water for geothermal exploration if the taking, interference or use—
  - (a) happens during—
    - (i) the carrying out of geothermal exploration in the area of the permit; or
    - (ii) the compliance with a requirement or condition mentioned in section 97(1);<sup>15</sup> and
  - (b) is reasonably unavoidable.
- (2) The holder or authorised person is not required to hold an authority under the *Water Act 2000* for the taking or interference.

**39A Taking samples in geothermal exploration**

- (1) To remove any doubt, it is declared that the right of a permit holder under section 35 includes the right of the holder or an authorised person for the permit to take samples of materials from any part of the area of the permit in which geothermal exploration may, under section 35, be carried out.
- (2) However, subsection (1) applies only to the extent that the taking of the samples is necessary for geothermal exploration in the area of the permit.

**39B Ownership of samples taken in geothermal exploration**

Subject to section 107,<sup>16</sup> samples of materials necessarily taken for geothermal exploration by a permit holder or an authorised person for the permit in compliance with this Act become the property of the permit holder when they are taken.

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15 Section 97 (Entry authority to comply with requirement after permit ceases or area reduced)

16 Section 107 (Direction to give samples)

## **Part 2                      Mandatory conditions**

### **40        Operation of pt 2**

- (1) This part imposes particular conditions on each geothermal exploration permit.
- (2) The imposed conditions, and any other conditions imposed under this Act (other than a tenure condition) on a geothermal exploration permit are *mandatory conditions*.<sup>17</sup>
- (3) If a mandatory condition conflicts with a tenure condition, the mandatory condition prevails to the extent of the inconsistency.
- (4) As well as imposing a condition, sections 45, 47 and 50 also impose a penalty.<sup>18</sup>

### **41        Compliance with agreed specific objectives**

- (1) The permit holder must achieve the agreed specific objectives for the permit on or before the time provided for in the objectives.<sup>19</sup>
- (2) Subsection (1) does not stop the holder from carrying out geothermal exploration not provided for in the specific objectives if this Act and the other conditions of the permit are complied with.

### **42        No unauthorised activities**

The permit holder must not carry out, or authorise the carrying out of, an activity in the area of the permit unless it is authorised or provided for under this Act or another Act.

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17 See also section 96 (Requirement to give chief executive copy of notice of entry).

18 Sections 45 (No obstruction of other access rights), 47 (Obligation to remove equipment and plant) and 50 (Notice of significant discovery)

19 For the agreed specific objectives see section 31(d) (Restrictions on grant).

**43 Annual rent and interest**

- (1) The permit holder must pay the State the annual rent for the permit, 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.
- (3) If the permit holder does not pay the annual rent, the holder must also pay the State interest at the rate prescribed under a regulation on the amount of the unpaid rent, starting on the day immediately after the amount became payable and ending on the day the unpaid rent is paid in full, both days inclusive.

**44 Notice of significant change in membership of permit holder or holding company**

If the permit holder is a company and there is a significant change in the membership of the holder or any holding company of the holder, the holder must, as soon as practicable, give the Minister a notice of the change.

**45 No obstruction of other access rights**

If someone else has the right to enter the area of the permit, the permit holder or an authorised person for the permit must not unreasonably obstruct the person from exercising that right.<sup>20</sup>

Maximum penalty—100 penalty units.

**46 Improvement restoration**

- (1) If an activity carried out by the permit holder or an authorised person for the permit causes damage to an improvement on, or attached to, land in the area of the permit, the holder must, within a reasonable period—
  - (a) restore the improvement at least to the same, or substantially the same, condition that it was in before the damage happened; or

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<sup>20</sup> See also section 100 (Right to compensation).

- (b) replace it with another improvement in the condition mentioned in paragraph (a); or
  - (c) pay an agreed amount of compensation to the owner of the improvement.<sup>21</sup>
- (2) For subsection (1), damage does not include damage to which a requirement under another Act applies.

#### **47 Obligation to remove equipment and plant**

- (1) If the permit holder or an authorised person for the permit brings equipment or plant on to land in the area of the permit, the holder or person must remove it from the land before the required time, unless its continued presence on the land—
- (a) has been agreed to in writing by the landholder of the land; or
  - (b) is authorised under another Act.
- Maximum penalty—100 penalty units.
- (2) In this section—

*equipment or plant* does not include equipment for a geothermal exploration bore if it is not reasonably practicable to remove it from the bore.

*required time* means the later of the following—

- (a) when the land ceases to be in the area of the permit;
- (b) if an entry authority under section 97<sup>22</sup> has been given for the land—the end of the period stated in the authority.

#### **48 Notice of change of address for service**

- (1) This section applies if any of the following change—
- (a) the permit holder's address for service;

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<sup>21</sup> See also section 100 (Right to compensation).

<sup>22</sup> Section 97 (Entry authority to comply with requirement after permit ceases or area reduced)



- (b) the person to whom service of notices under this Act on the holder may be given.
- (2) The holder must give the chief executive a notice of the change within 20 business days.
- (3) The notice must be in the approved form and accompanied by the fee prescribed under a regulation.

## **49 Reporting**

A permit holder must report to the chief executive about the following, in the way and at the times or intervals prescribed under a regulation—

- (a) geothermal exploration carried out in the area of the permit;
- (b) the results of the exploration.

## **49A Public release of required information**

- (1) The mere fact of the existence of a geothermal exploration permit 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 permit for public use, including, for example, to support geothermal exploration;
  - (b) on payment of a fee prescribed under a regulation, make the information available to any person.
- (2) Any confidentiality period mentioned in subsection (1) ends if the information is about an authorised activity carried out solely in an area that is no longer in the area of the permit.
- (3) The authorisation is not affected by the ending of the permit.
- (4) In this section—

*authorised activity*, for a geothermal exploration permit, is an activity that its holder is, under this Act or the permit, entitled to carry out in relation to the permit.

**49B Chief executive may use required information**

The mere fact of the existence of a geothermal exploration permit is also taken to be an authorisation from its holder to the chief executive to use required information for the permit for—

- (a) purposes reasonably related to this Act that are required for the permit; or
- (b) the services of the State.

**50 Notice of significant discovery**

If a permit holder or an authorised person for the permit discovers a significant occurrence of any of the following in the area, the holder must, as soon as practicable, give the chief executive a notice of the discovery—

- (a) geothermal material;
- (b) petroleum, as defined under the *Petroleum and Gas (Production and Safety) Act 2004*;
- (c) a mineral, as defined under the *Mineral Resources Act 1989*.

Maximum penalty—500 penalty units.

**51 Compliance with directions**

The permit holder must comply with any direction given to the holder under this Act.<sup>23</sup>

**52 Conditions imposed under a regulation**

The permit holder must comply with any conditions for the permit prescribed under a regulation.

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<sup>23</sup> See sections 55 (Replenishment of security) and chapter 7, part 1 (Directions).

## Part 3                      Security

### 53      Power to use security

- (1) Subject to section 54, security for a geothermal exploration permit<sup>24</sup> may be used by the State to pay the costs of remedying a contravention of the permit or of this Act in relation to the permit, including, for example, for a purpose as follows—
  - (a) to rectify loss or damage to improvements;
  - (b) to remove plant or equipment;
  - (c) to close a borehole;
  - (d) to satisfy a debt, other than a penalty, owing to the State under this Act;
  - (e) to rectify a breach of a mandatory condition or tenure condition of the permit.
  - (f) to pay compensation payable to anyone under this Act.<sup>25</sup>
- (2) In this section—

*geothermal exploration permit* includes a geothermal exploration permit that has ended the security for which is still being kept under section 56.

### 54      Notice of claim on security

- (1) Before security for a geothermal exploration permit may be used, the Minister must—
  - (a) give the permit holder a notice stating each of the following—
    - (i) the purpose for which the security is proposed to be used;
    - (ii) the amount of the security proposed to be used;

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24 For the requirement to give security before grant, see section 31 (Restrictions on grant).

25 See section 100 (Right to compensation).

- (iii) that the holder may make submissions to the Minister about the proposed use;
    - (iv) a reasonable period for the submissions to be made; and
  - (b) consider any submissions made by the holder within the stated period.
- (2) In this section—
- holder**, for a geothermal exploration permit that has ended, means the person who held the permit immediately before it ended.

## **55 Replenishment of security**

- (1) This section applies, if—
- (a) under this part, all or part of the security for a geothermal exploration permit has been used; and
  - (b) the permit is still in force.
- (2) The Minister must give the permit holder a notice—
- (a) stating how much of the security has been used; and
  - (b) directing the holder to, within 20 business days after the giving of the notice, replenish the security for the permit in the form and up to the amount prescribed under section 31.<sup>26</sup>

## **55A Replacement of security**

- (1) This section applies if—
- (a) the security for a geothermal exploration permit is given by way of a bond, guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or credit provider (an **external security provider**); and
  - (b) the external security provider is or becomes subject to any action taken by or against it, or any holding

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26 Section 31 (Restrictions on grant)

company of it, that may result in the external security provider becoming an externally-administered body corporate.

- (2) The Minister may, by written notice given to the permit holder, direct the holder to replace the security in the form and up to the amount prescribed under section 31.
- (3) On the replacement of the security, the security held for the permit immediately before the replacement must be refunded to the external security provider.

### **55B Security not affected by change in permit holder**

- (1) This section applies if security is given for a geothermal exploration permit that is still in force and there is a subsequent change in the permit holder.
- (2) Despite the change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 53.
- (3) The permit holder's name as stated in any instrument under which the security was given is taken to have been changed to reflect the change.
- (4) 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 permit.

### **56 Retention of security**

- (1) The security, or part of the security, for a geothermal exploration permit may be kept for no more than 6 months after the permit has ended.
- (2) However, if—
  - (a) a claim has been made before the end of the 6 month period for an amount for which the security may, under section 53, be used to pay; and
  - (b) the amount has not been assessed;an appropriate amount of the security to meet the claim may be kept until the amount has been assessed.



- (b) comply with any additional requirements under subdivisions 2 to 6 that apply to the making of the application; and
  - (c) be accompanied by the fee prescribed under a regulation.
- (3) In this section—

*call for tender condition* means a tenure condition of the permit that is the same, or substantially the same, as a condition that, under section 17(3)(f)(i),<sup>28</sup> was proposed for the permit.

## 58 Deciding application

- (1) This section applies subject to—
- (a) any additional requirements under subdivisions 2 to 6 for the deciding of the application or the taking effect of the decision; and
  - (b) section 133A.<sup>29</sup>
- (2) The Minister must decide whether to grant or refuse all or part of the application.
- (3) If the decision is to grant all or part of the application, the chief executive must, as soon as practicable—
- (a) amend the instrument for the permit to reflect the decision; and
  - (b) give the applicant a notice of the decision.
- (4) If the decision is to refuse all or part of the application, the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice about the decision.

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28 Section 17 (Power to call for tenders)

29 Section 133A (Dealing with application that is not a properly made application)

## **Subdivision 2      Additional provisions for amendment of tenure conditions**

### **59      Making application**

An application to amend a tenure condition must state sufficient grounds to justify why the Minister should make the amendment.

### **60      Deciding application**

The Minister must, in deciding the application, have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the applicant.

## **Subdivision 3      Additional provisions for deferral of agreed specific objective**

### **61      Making application**

- (1) An application to defer the time provided for achievement of an agreed specific objective for a geothermal exploration permit can not be made if—
  - (a) a previous application has been made to defer achievement of that agreed specific objective; or
  - (b) the deferral sought is more than 12 months; or
  - (c) the deferral, if granted, would extend the time beyond the current term of the permit; or
  - (d) the time—
    - (i) has ended; or
    - (ii) unless deferred, ends within 20 business days after the application is made.
- (2) The application must state sufficient grounds to justify why the Minister should consider the deferral sought.
- (3) The deferral sought must be a multiple of whole months.



(4) In this section—

*previous application* does not include an application that is not a properly made application.

## **62 Deciding application**

- (1) The Minister may grant the application only if satisfied events beyond the holder's control justify the deferral.
- (2) For subsection (1), events beyond the holder's control—
  - (a) do not include a failure to obtain enough financial resources; but
  - (b) may include a failure to obtain enough technical resources if the Minister is satisfied there is clear evidence that reasonable endeavours have been made to obtain the resources.

## **Subdivision 4 Additional provisions for deferral of giving of reports and samples**

### **63 Making application**

- (1) An application to defer compliance with section 49 or 107<sup>30</sup> in relation to the giving of a particular report or samples can not be made if—
  - (a) a previous application has been made to defer the compliance for the giving of the report or samples; or
  - (b) the extension sought is more than 3 months; or
  - (c) the time for the compliance—
    - (i) has ended; or
    - (ii) unless deferred, ends within 20 business days after the application is made.
- (2) The application must state sufficient grounds to justify why the Minister should consider the deferral sought.

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30 Sections 49 (Reporting) and 107 (Direction to give samples)

(3) The deferral sought must be a multiple of whole months.

(4) In this section—

*previous application* does not include an application that is not a properly made application.

## **64 Deciding application**

The Minister may grant the application only if satisfied events beyond the holder's control justify the deferral.

## **Subdivision 5 Additional provisions for surrenders**

### **65 Making application**

An application to surrender all or part of a geothermal exploration permit must be accompanied by—

- (a) a report under section 49 for the surrender; and
- (b) evidence the holder has complied with sections 46 and 47.<sup>31</sup>

### **66 Deciding application**

- (1) The Minister may decide to grant the application only if the applicant has complied with sections 46, 47 and 49<sup>32</sup> in relation to the proposed surrender.
- (2) If the decision is to accept all or part of the surrender—
  - (a) the surrender takes effect on the last day of the month in which the acceptance was made; and
  - (b) the Minister must refund the applicant any annual rent overpaid because of the surrender, worked out

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31 Sections 46 (Improvement restoration), 47 (Obligation to remove equipment and plant) and 49 (Reporting)

32 Sections 46 (Improvement restoration), 47 (Obligation to remove equipment and plant) and 49 (Reporting)

proportionately for the whole months remaining until the end of the year for which the rent was paid.

## **Subdivision 6 Additional provisions for transfers**

### **67 Transfer only by application**

A purported transfer of a geothermal exploration permit, or of a holder's interest in a geothermal exploration permit, not made under this part is of no effect.

### **68 Additional requirements for making application**

- (1) An application to transfer a geothermal exploration permit or a holder's interest in a geothermal exploration permit can only be made by all holders of the permit and all proposed transferees.
- (2) The application may be made only if—
  - (a) more than 1 year has passed since the permit took effect; and
  - (b) either—
    - (i) no condition of the permit has been contravened; or
    - (ii) if a condition has been contravened—the contravention has been remedied or addressed; and
  - (c) either—
    - (i) no proposed action notice has been given in relation to the permit; or
    - (ii) if a proposed action notice has been given—the chief executive has given the permit holder a notice that the proposed action will not be taken or that the action has been resolved.
- (3) The application must show the proposed transferee's ability to comply with the suitability criteria as if the application were a tender for the permit.

**69 Deciding application**

The Minister must, in deciding the application, have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the proposed transferee.

**70 Steps after approval**

- (1) If the decision is to grant the application, the chief executive must, as soon as practicable, give the applicants a notice of the decision.
- (2) The transfer takes effect on a day fixed by a notice from the applicants to the chief executive.
- (3) However, the decision has no effect and the transfer does not take effect if a notice under subsection (2) is not given within 3 months after the giving of the notice under subsection (1).

**Division 2 Amendment and cancellation by Minister or chief executive****Subdivision 1 Amendment and cancellation powers****71 Chief executive's power to correct error**

The chief executive may amend a geothermal exploration permit to correct an error.<sup>33</sup>

**72 Minister's power to amend permit area or tenure conditions**

- (1) The Minister may amend a geothermal exploration permit by—
  - (a) amending any of its tenure conditions; or
  - (b) reducing its area.

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<sup>33</sup> See also section 123 (Maintaining register).

- (2) However, the amendment or reduction may be made only if—
  - (a) the permit holder has, in writing, agreed to the amendment or reduction; or
  - (b) the Minister considers the amendment necessary or desirable because of a ground mentioned in section 73 or 74 and the procedure under subdivision 2 is followed.
- (3) This section does not limit or otherwise affect a power under another provision of this Act to amend a geothermal exploration permit.<sup>34</sup>

### **73 Grounds for amending tenure condition**

For section 72(2)(b), the grounds for amending a tenure condition are any of the following—

- (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
- (b) a reduction of area of the permit;
- (c) a release of embargoed land for the permit;
- (d) if there is more than 1 holder of the permit—the interest of all of the holders in the permit changes by more than 10%;
- (e) if the holder is a company—there is a significant change in its membership.

### **74 Grounds for reducing permit area**

- (1) For section 72(2)(b), the grounds for reducing the area of a permit are any of the following—
  - (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
  - (b) the Minister is of the opinion that a holder of the permit is no longer suitable to be a holder of the permit;

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<sup>34</sup> See division 1 (Applications) and sections 71 (Chief executive's power to correct error) and 86 (Release of embargoed land).

- (c) the permit or a holder's interest in the permit was obtained because of a materially false or misleading declaration or representation, made orally or in writing.
- (2) In considering whether the holder is suitable to hold the permit, the Minister must have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the holder.

## **75 Minister's power to cancel or suspend**

- (1) The Minister may, if the conditions under subsection (3) have been complied with, cancel or suspend a geothermal exploration permit.
- (2) The suspension must be a suspension of one of the following types—
  - (a) a suspension (a *complete suspension*) that does not allow the exercise of any of the rights under chapter 4, part 1,<sup>35</sup> in relation to the permit in any part of area of the permit;
  - (b) a suspension (a *limited suspension*) of particular rights under chapter 4, part 1, in relation to the permit for all or part of its area.
- (3) For subsection (1), the conditions are that—
  - (a) the Minister considers the cancellation or suspension necessary or desirable; and
  - (b) for cancellation—the Minister may, under section 72, reduce the area of the permit; and
  - (c) for suspension—a ground under section 76 exists; and
  - (d) the following provision is complied with—
    - (i) for cancellation or suspension without immediate suspension—subdivision 2;
    - (ii) for immediate suspension—subdivisions 2 and 3.

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35 Chapter 4, part 1 (Rights under geothermal exploration permits)

**76 Grounds for suspension**

- (1) For section 75(3)(c), the grounds for suspension are any of the following—
  - (a) a contravention of this Act or a tenure condition by the permit holder or an authorised person for the permit;
  - (b) the Minister is of the opinion that the holder is no longer suitable to hold the permit;
  - (c) the giving of a direction under section 102 or 103;<sup>36</sup>
  - (d) security for the permit is, or may be, insufficient to remedy the contravention and any other contravention of this Act or condition of the permit by the permit holder or an authorised person for the permit;
  - (e) the permit or a holder's interest in the permit was obtained because of a materially false or misleading declaration or representation, made orally or in writing.
- (2) In considering whether the holder is suitable to hold the permit, the Minister must have regard to the suitability criteria as if a reference in the criteria to a tenderer were a reference to the holder.

**Subdivision 2 General procedure for amendment, cancellation and suspension by Minister****77 Application of sdiv 2**

This subdivision applies if the Minister proposes—

- (a) under section 72,<sup>37</sup> to amend a tenure condition, or reduce the area, of a geothermal exploration permit other than with the written agreement of its holder; or
- (b) to cancel or suspend a geothermal exploration permit.

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36 Section 102 (Direction to ease landholder concerns) or 103 (Direction to close exploration bore)

37 Section 72 (Minister's power to amend permit area or tenure conditions)

**78 Notice of proposed action**

- (1) The Minister must give the permit holder a notice (a *proposed action notice*) stating each of the following—
  - (a) the action (the *proposed action*) the Minister proposes to take under this division;
  - (b) the grounds for the proposed action;
  - (c) the facts and circumstances that are the basis for the grounds;
  - (d) if the proposed action is to amend—the proposed amendment;
  - (e) if the proposed action is to suspend—
    - (i) the proposed suspension period; and
    - (ii) whether the proposed suspension is a complete suspension or a limited suspension; and
    - (iii) if the proposed suspension is a limited suspension—
      - (A) the rights under chapter 4, part 1, that are proposed to be suspended; and
      - (B) whether the suspension is for all or part of the area of the permit; and
      - (C) if the suspension is for part of the area—that part;
  - (f) that the holder may, within a stated period (the *submission period*), make submissions to show why the proposed action should not be taken.
- (2) The submission period must end at least 20, but no more than 40, business days after the proposed action notice is given.
- (3) The proposed suspension period may be fixed by reference to a stated event.

**79 Minister may seek submissions from others**

The Minister may, before or during the submission period, seek submissions about the proposed action from an affected



person for land in the area of the permit or from other relevant persons.

## **80 Considering submissions**

The Minister must consider any submissions under section 78(1)(f) or 79 made within the submission period.

## **81 Decision on proposed action**

- (1) If, after complying with section 80, the Minister still believes a ground exists to take the proposed action, the Minister may decide to take all or part of the proposed action.
- (2) The decision takes effect on the later of the following—
  - (a) the day the chief executive gives the permit holder an information notice about the decision;
  - (b) a later day stated in the notice.
- (3) If the Minister at any time decides not to take the proposed action, the chief executive must give the permit holder a notice of the decision.

## **Subdivision 3 Immediate suspension**

### **82 Power of and procedure for immediate suspension**

- (1) The Minister may, by a notice (an *immediate suspension notice*) to the permit holder, impose an immediate suspension on the permit if—
  - (a) the Minister has given the holder a proposed action notice; and
  - (b) a ground under section 83 exists.
- (2) The immediate suspension notice may include, or be accompanied by, a proposed action notice.
- (3) The immediate suspension notice must state each of the following—

- (a) whether the suspension is a complete suspension or a limited suspension;
  - (b) if the suspension is a limited suspension—
    - (i) the rights under chapter 4, part 1, that are suspended; and
    - (ii) whether the suspension is for all or part of the area of the permit; and
    - (iii) if the suspension is for part of the area—that part;
  - (c) that the suspension takes effect immediately and continues until the Minister gives the holder a notice—
    - (i) of the Minister’s decision under section 81; or
    - (ii) that the Minister has decided not to take the proposed action;
  - (d) the grounds for the suspension;
  - (e) the facts and circumstances forming the basis for the grounds;
  - (f) that the permit holder may make submissions to the Minister to show why the suspension should end.
- (4) The suspension has effect when the permit holder is given the immediate suspension notice.
- (5) Each of the stated rights do not apply for the stated area in relation to the permit during the suspension period.

### **83 Grounds for immediate suspension**

For section 82(1)(b), the grounds are that—

- (a) the Minister reasonably believes the permit holder or an authorised person for the permit has contravened, is contravening or may contravene this Act or a condition of the permit and—
  - (i) the contravention has caused, is causing, or will probably cause, a risk to health or safety; or
  - (ii) the contravention has caused, is causing, or will probably cause, a private or public nuisance at common law; or

- (iii) security for the permit is, or may be, insufficient to remedy the contravention and any other contravention of this Act or condition of the permit by the permit holder or an authorised person for the permit; or
- (b) the Minister has given the permit holder a proposed action notice for a proposed direction under section 102 and the landholder's concern for which the direction is proposed relates to a matter mentioned in paragraph (a); or
- (c) the Minister has given the permit holder a proposed action notice for a proposed direction under section 103 and the direction is proposed to be given on a ground mentioned in section 103(1)(a), (c) or (d).<sup>38</sup>

## **Chapter 5      Access**

### **Part 1              Embargoed land**

#### **84      Minister's power to decide embargoed land**

- (1) The Minister may, in deciding a tender release area or the area of a geothermal exploration permit, decide that land is embargoed land for the tender release area or area of the permit.
- (2) Embargoed 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.

#### **85      Effect of embargoed land for permit**

- (1) Embargoed land for a geothermal exploration permit still forms part of the area of the permit.

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<sup>38</sup> Sections 102 (Direction to ease landholder concerns) and 103 (Direction to close exploration bore)

- (2) However, while the land is embargoed land for the permit, the rights under sections 35 and 37, can not be exercised in relation to the land.<sup>39</sup>

## **86 Release of embargoed land**

- (1) The Minister may amend a geothermal exploration permit to release embargoed land in its area if—
- (a) the permit holder consents; and
  - (b) the Minister considers the circumstances leading to the land becoming embargoed land no longer apply.
- (2) The Minister may amend a tenure condition for the permit that relates to the former embargoed land.

## **Part 2 Restricted land**

### **87 Requirements for access to restricted land**

- (1) A permit holder or an authorised person for the permit may enter restricted land for the permit and carry out geothermal exploration only if—
- (a) either of the following give written consent (*access consent*) to the entry and the carrying out of the activities—
    - (i) each landholder of, or person who has a production interest in, the land for which the entry is sought;
    - (ii) the tribunal, under section 89;<sup>40</sup> and
  - (b) the chief executive has been given a copy of the access consent.

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39 Sections 35 (Geothermal exploration) and 37 (Access to permit area)  
See also section 86 (Release of embargoed land).

40 Section 89 (Power of tribunal to give or vary access consent)

(2) In this section—

***restricted land*** means any of the following land in the area of the permit—

- (a) land, other than a road reserve under the *Land Act 1994* used only for access, in any of the following—
  - (i) land over which there is a production interest;
  - (ii) a reserve under the *Land Act 1994*;
  - (iii) a State forest or timber reserve under the *Forestry Act 1959*;
- (b) land within 100 m laterally of a permanent building used—
  - (i) mainly as accommodation or for business purposes; or
  - (ii) for community, sporting or recreational purposes or as a place of worship;
- (c) land within 50 m laterally of any of the following features—
  - (i) a principal stockyard;
  - (ii) a water bore from which water is regularly being taken;
  - (iii) a dam;
  - (iv) another artificial water storage connected to a water supply;
  - (v) a cemetery or burial place;
  - (vi) a significant Aboriginal area under the *Aboriginal Cultural Heritage Act 2003*;
  - (vii) a significant Torres Strait Islander area under the *Torres Strait Islander Cultural Heritage Act 2003*;
  - (viii) a place listed on the heritage register under the *Queensland Heritage Act 1992*.

**88 Provisions for access consent**

- (1) An access consent must state the land and the period to which it applies.
- (2) The period can not end after the later of the following—
  - (a) the remaining current term of the permit;
  - (b) if an entry authority under section 97<sup>41</sup> has been given for the land—the end of the period stated in the authority.
- (3) The consent may be given subject to written conditions attached to the consent.

**89 Power of tribunal to give or vary access consent**

- (1) A permit holder may apply to the tribunal—
  - (a) if a landholder of, or a person who has a production interest in, land in the area of the permit has not given access consent for the land—for the access consent; or
  - (b) to vary an access consent, or conditions of the consent, for land in the area of the permit.
- (2) The tribunal may give or vary the access consent only if satisfied—
  - (a) the consent is effectively unobtainable from the landholder or person who has the production interest; or
  - (b) the permit holder has used reasonable attempts over a period of at least 3 months to negotiate the access consent and the landholder or person who has the production interest has—
    - (i) unreasonably refused to give the consent; or
    - (ii) imposed, or sought to impose, unreasonable conditions on the consent.
- (3) For subsection (2)(a) access consent is effectively unobtainable if, after making reasonable attempts, the permit

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41 Section 97 (Entry authority to comply with requirement after permit ceases or area reduced)

holder has not been able to contact the landholder or person who has the production interest.

## **Part 3                      Notice of entry**

### **90            Application of pt 3**

- (1) This part applies to a permit holder for an entry under this Act to land in the area of the permit.
- (2) However, this part does not apply if the entry is—
  - (a) merely access along a road reserve under the *Land Act 1994*; or
  - (b) needed to preserve life or property because of an emergency that exists, or may exist.

### **91            Requirement for notice of entry**

- (1) Subject to sections 92 and 93, the permit holder or an authorised person for the permit may enter the land only—
  - (a) if the holder has, at least 5 business days before the entry, given a notice under this part to—
    - (i) each landholder of the land; and
    - (ii) each native title body for the land; and
  - (b) the period to which the notice applies has not ended.
- (2) A notice under subsection (1) is a *notice of entry*.

### **92            Waiver by chief executive of requirement**

- (1) The permit holder may apply to the chief executive to waive the requirement under section 91(1) to give a notice of entry for an entry to the land to a particular landholder or native title body.
- (2) The application must—
  - (a) be in the approved form; and

- (b) state efforts made to contact the landholder or native title body; and
- (c) be accompanied by—
  - (i) a proposed notice of entry for the entry; and
  - (ii) the fee prescribed under a regulation.
- (3) Subject to section 133A,<sup>42</sup> the chief executive must consider and decide whether to waive the requirement.
- (4) However, the chief executive may waive the requirement only if the chief executive considers the landholder or native title body is effectively uncontactable.
- (5) The chief executive may, before waiving the requirement, require the permit holder to carry out stated steps, including, for example, publishing, in a stated way, a notice of the proposed entry.
- (6) If the chief executive decides to refuse to waive the requirement, the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice about the decision.
- (7) A waiver under subsection (3) has effect only for 3 months after it is granted.

### **93 Waiver by landholder or native title body of requirement**

- (1) A landholder or native title body of or for the land may waive the requirement under section 91(1) to be notified by the holder, for any period.
- (2) However, the waiver has effect only if it is written and given to the chief executive.

### **94 Requirements for notice of entry**

- (1) A notice of entry must—
  - (a) describe—

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42 Section 133A (Dealing with application that is not a properly made application)



- (i) the land proposed to be entered, in a way that will allow the recipient to identify it; and
  - (ii) the activities proposed to be carried out on the land; and
- (b) state—
  - (i) when the activities are proposed to be carried out; and
  - (ii) the period to which the notice of entry applies.
- (2) Also, for the first notice of entry given by the permit holder to a particular landholder or native title body of or for the land, a copy of the following must be attached to the notice—
  - (a) any codes of conduct to which the permit is subject;
  - (b) any environmental authority for an activity that may be carried out under the permit.

## **95 Expiry of notice of entry**

- (1) A notice of entry ceases to have force at the end of the period for which the notice of entry applies.
- (2) This section does not prevent the giving of a subsequent notice of entry for the land at any time.

## **96 Requirement to give chief executive copy of notice of entry**

- (1) It is a mandatory condition of the permit that the holder must, before entering land, give the chief executive a copy of the notice of entry for the entry.
- (2) A contravention of subsection (1) does not invalidate or otherwise affect the entry.



production interest in, the land a notice of entry for the entry and a copy of the entry authority.

- (6) This Act applies to the entering person for the entry and the carrying out of the stated purpose as if the permit or former permit were still in force in relation to the land being entered.
- (7) In making the entry, the entering person may bring on the land being entered equipment necessary to carry out the stated purpose.

## **Part 5                      Public roads**

### **Division 1                  Preliminary**

#### **97A      Significant projects excluded from div 1**

This division does not apply for a geothermal exploration permit that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

#### **97B      What is a *notifiable road use***

- (1) A *notifiable road use*, for a geothermal exploration permit, is—
  - (a) the use of a public road in the area of the permit for transport relating to a seismic survey or drilling activity; or
  - (b) the use of a public road at more than the threshold rate if the haulage relates to the transportation of equipment, plant or materials used for activities authorised under the permit.
- (2) Subsection (1)(b) applies even if the road is not on land in the area of the permit.

(3) In this section—

*threshold rate* means—

- (a) for a State-controlled road—50 000 t a year; or
- (b) for another public road—10 000 t a year.

## **Division 2                    Notifiable road uses**

### **97C    Notice of notifiable road use**

(1) It is a condition of a geothermal exploration permit that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.<sup>43</sup>

(2) The notice must—

- (a) be given—
  - (i) at least 10 business days before the use starts; or
  - (ii) within a shorter period agreed to by the public road authority in writing; and
- (b) state each of the following—
  - (i) the public road proposed to be used;
  - (ii) the type of haulage under the use;  
*Example of type of haulage—*
    - vehicle type
    - material hauled
  - (iii) the total weight of material proposed to be hauled;
  - (iv) when the use is proposed to start and end;
  - (v) the frequency of vehicle movements;
  - (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

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<sup>43</sup> See also section 97K (Compensation to be addressed before carrying out notifiable road use).

**97D Directions about notifiable road use**

- (1) The public road authority for a public road may, by written notice, give a geothermal exploration permit holder a direction (a *road use direction*) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
  - (a) be reasonable; and
  - (b) only be about—
    - (i) preserving the condition of the road; or
    - (ii) the safety of road-users or the public; and
  - (c) be accompanied by, or include, an information notice about the decision to give the direction.

*Examples of what a direction may be about—*

- when the road may be used
  - the route for the movement of heavy vehicles
  - safety precautions the holder must take
- (3) The direction may also require the holder to—
    - (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and
    - (b) consult with the public road authority in carrying out the assessment.
  - (4) However—
    - (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
    - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the *Environmental Protection Act 1994*, or a similar document under another Act.

**97E Obligation to comply with road use directions**

It is a condition of a geothermal exploration permit that its holder must comply with any road use direction given to the holder relating to the permit, unless the holder has a reasonable excuse.

**Division 3 Compensation for notifiable road uses****97F Liability to compensate public road authority**

- (1) The holder of a geothermal exploration permit is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs, or will incur, that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

*Examples of a possible cost for subsection (1)—*

- repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
  - capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses
  - bring-forward costs, including interest charges, for a planned upgrade of the road that, because of any of the uses, is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's ***compensation liability*** to the public road authority.
- (3) The compensation liability—
- (a) applies whether or not the holder has, under section 97C, given notice of the use; and
  - (b) is subject to section 97L;<sup>44</sup> and
  - (c) is in addition to, and does not limit or otherwise affect, the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

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44 Section 97L (Compensation not affected by change in administration or holder)

**97G Compensation agreement**

- (1) A geothermal exploration permit holder and the public road authority for a public road may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the public road authority relating to the road.
- (2) A compensation agreement may relate to all or part of the liability.
- (3) A compensation agreement must—
  - (a) be signed by, or for, the holder and the public road authority; and
  - (b) state whether it is for all or part of the liability; and
  - (c) if it is for only part of the liability, state—
    - (i) each part of the notifiable road use to which the agreement relates; and
    - (ii) the period for which the agreement has effect; and
  - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may provide for—
  - (a) monetary or non-monetary compensation; or
  - (b) a process by which it may be amended or enforced.

*Example—*

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the permit, including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

**97H Deciding compensation through tribunal**

- (1) The public road authority for a public road or a geothermal exploration permit holder may make an application (a ***compensation application***) to the tribunal for it to decide the holder's compensation liability to the public road authority relating to the road.

- (2) The tribunal may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- (3) In making the decision, the tribunal may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

### **97I Criteria for decision**

- (1) The criteria the tribunal must consider, in deciding a compensation application, include—
  - (a) the reasonableness of the cost, damage or loss claimed; and
  - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been, paid from—
    - (i) amounts the geothermal exploration permit holder has paid, or agreed to pay, the public road authority for notifiable road uses; or
    - (ii) fees and charges under the *Local Government Act 1993* paid or payable by the holder to the public road authority; and
  - (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the tribunal must have regard to—
  - (a) any action taken, or proposal by, the holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
  - (b) any relevant act or omission of the public road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

### **97J Tribunal review of compensation**

- (1) This section applies if—
  - (a) the compensation liability, or future compensation liability, of a geothermal exploration permit holder to a



*Geothermal Exploration Act 2004*

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public road authority has been agreed to under a compensation agreement or decided by the tribunal (the *original compensation*); and

- (b) there has, since the agreement or decision, been a material change in circumstances.

*Example of a material change in circumstances—*

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) The public road authority or holder may apply to the tribunal for it to review the original compensation.
- (3) Sections 97H and 97I apply, with necessary changes, for the review as if the application were a compensation application.
- (4) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- (5) However, before making the decision, the tribunal must have regard to—
- (a) the original compensation; and
  - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
  - (c) any change in the matters mentioned in section 97I(1) since the original compensation was agreed or decided.
- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

**97K Compensation to be addressed before carrying out notifiable road use**

It is a condition of a geothermal exploration permit that its holder must not carry out a notifiable road use on a public road unless—

- (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or

- (b) the public road authority has given written consent to the carrying out of the use; or
- (c) a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.

**97L Compensation not affected by change in administration or holder**

- (1) An agreement or decision under this part about compensation liability is binding on—
  - (a) the relevant public road authority and geothermal exploration permit holder; and
  - (b) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 97J.

## **Chapter 6 Damage and compensation**

**98 Duty to avoid damage**

In exercising a power under section 35, 37 or 97,<sup>45</sup> a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

**99 Notice of damage**

- (1) This section applies to a person (the *entering person*) who, under section 35, 37 or 97, enters or purports to enter land.
- (2) If the entering person damages the land or an item on the land, the entering person must, as soon as practicable, give a notice of the damage to—

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<sup>45</sup> Section 35 (Geothermal exploration), 37 (Access to permit area) or 97 (Entry authority to comply with requirement after permit ceases or area reduced)

- (a) each relevant landholder of, or other person who has a production interest in, the land on which the damage happened; and
  - (b) the owner of the item.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the entering person must—
- (a) leave the notice at the place where the damage happened; and
  - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (4) The notice must state—
- (a) particulars of the damage; and
  - (b) that a person who suffered the damage may, under section 100, claim compensation from the relevant permit holder; and
  - (c) if the entering person is not the holder—the holder's name.

## **100 Right to compensation**

- (1) This section applies if a person as follows (a *claimant*) suffers a compensatable effect because of the exercise, or purported exercise, by someone else of a right under 35, 37 or 97—
- (a) a landholder;
  - (b) a person who has a production interest;
  - (c) the owner of an item.

### *Example of loss—*

inability or interference with the lawful enjoyment or use of the landholder's land

- (2) Compensation is payable to the claimant by the holder of the geothermal exploration permit for which the power was exercised or purportedly exercised.
- (3) However, the compensation is not payable for action taken if the person who took the action was not authorised by the

holder to do the activity that resulted in the compensatable effect.

(4) In this section—

*compensatable effect* means—

- (a) all or any of the following in relation to the claimant's land—
  - (i) deprivation of possession of its surface;
  - (ii) diminution of its value;
  - (iii) diminution of the use made, or that may be made, of the land or any improvement on it;
  - (iv) severance of any part of the land from other parts of the land or from other land that the claimant owns; and
- (b) any cost or loss arising from the carrying out of activities under the geothermal exploration permit or the exercise of access rights under this Act on the claimant's land or of the item.

*geothermal exploration permit* includes a former geothermal exploration permit.

## **101 How compensation may be claimed**

- (1) Compensation under section 100 may be claimed and ordered in a proceeding brought by the claimant in the tribunal.
- (2) The tribunal may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

## Chapter 7      Miscellaneous provisions

### Part 1            Directions

#### 102      Direction to ease landholder concerns

- (1) This section applies if the Minister reasonably believes that, to ease a valid concern of a landholder of land in the area of a geothermal exploration permit, the permit holder ought reasonably to take action, or cease taking action.
- (2) The Minister may, by a notice, direct the permit holder to, within a stated reasonable period, take the action, or cease taking the action.
- (3) However, before giving the notice, the Minister must comply with chapter 4, part 4, division 2, subdivision 2<sup>46</sup>—
  - (a) as if the giving of the direction were a proposed action notice; and
  - (b) as if the decision on the proposed action is a decision whether to give the direction; and
  - (c) with other necessary changes.

#### 103      Direction to close exploration bore

- (1) Subject to subsection (3), the Minister may direct the responsible person for an exploration bore (the *subject bore*) to close it, if the Minister considers that the subject bore—
  - (a) is dangerous to persons, or may damage property; or
  - (b) is adversely affecting any of the following—
    - (i) another exploration bore or another type of bore;
    - (ii) an aquifer or mineral or petroleum deposit;
    - (iii) a natural spring; or

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<sup>46</sup> Chapter 4, part 4, division 2, subdivision 2 (General procedure for amendment, cancellation and suspension by Minister)

- (c) is causing a private or public nuisance at common law;  
or
  - (d) has been abandoned or discontinued.
- (2) The direction may require the subject bore to be closed—
- (a) in a stated way or to a stated extent; and
  - (b) either permanently or for a stated period.
- (3) Before giving the notice, the Minister must comply with chapter 4, part 4, division 2, subdivision 2—
- (a) as if the giving of the direction were a proposed action notice; and
  - (b) as if the decision on the proposed action is a decision whether to give the direction; and
  - (c) with other necessary changes.
- (4) Generally, for subsection (1), the responsible person for the subject bore is the holder, or former holder, of the relevant geothermal exploration permit.
- (5) However, if under chapter 7, part 5,<sup>47</sup> control of and responsibility for the subject bore has been transferred to someone else, the other person is the responsible person for the subject bore.
- (6) Also, if the subject bore has been re-opened by anyone, that person is the responsible person for the bore.

#### **104 Compliance with direction to close exploration bore**

A person to whom a direction under section 103 has been given must comply with the direction.

Maximum penalty—1 200 penalty units.<sup>48</sup>

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<sup>47</sup> Chapter 7, part 5 (Transfers in relation to bores)

<sup>48</sup> See also section 51 (Compliance with directions).

**105 Direction to survey**

- (1) The Minister may, by a notice, direct a permit holder to survey the location of a stated bore or other activity carried out by the holder in the area of the permit.
- (2) The holder must cause the survey to be carried out by a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must pay any costs incurred in complying with the notice.

**106 Direction to give statement of financial and technical resources**

- (1) This section applies if the chief executive reasonably believes a change in circumstances relating to a permit holder may affect the holder's financial or technical ability to carry out work required under the work program for the permit.

*Examples of a change in circumstances—*

- 1 A notice of significant change in membership given under section 44.
  - 2 The entering into of an agreement to transfer, or application for approval to transfer, the permit.
  - 3 Any holder of the permit, a holding company or a person who, under the Corporations Act, has a substantial holding in any holder of the permit, becoming an externally-administered body corporate or an insolvent under administration.
  - 4 The taking of action by or against a person mentioned in example 3 that may result in the person becoming an externally-administered body corporate or an insolvent under administration.
  - 5 A proposed significant increase in activities to be carried out under the permit.
- (2) The chief executive may, by a notice, direct the permit holder to give the chief executive a revised statement of the holder's financial or technical resources within a stated reasonable period.

**107 Direction to give samples**

- (1) The chief executive may, by a notice, direct a permit holder to give the chief executive samples of materials obtained in the

carrying out of geothermal exploration in the area of the permit, in the way and at the times or intervals required by the chief executive.

- (2) A sample given to the chief executive under the direction is the property of the State.

### **108 Direction to give additional information for requirement under Act**

- (1) This section applies if—
  - (a) a permit holder is required under this Act to give the Minister or chief executive (the *official*) a notice, a document or information; and
  - (b) the person gives the notice, document or information.
- (2) The official may, by a notice, require the person to give, within the reasonable time stated in the notice, further information or documents about the matter for which the notice, document or information was given.

## **Part 2 Appeals**

### **109 Who may appeal**

A person who has been given, or is entitled to be given, an information notice about a decision of the Minister, chief executive or a public road authority (the *decider*) may appeal against the decision to the tribunal.

### **110 Period to appeal**

- (1) The appeal must be started within 20 business days after—
  - (a) if the person has been given an information notice about 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 tribunal may, at any time within the 20 business days, extend the period for making an appeal.

### **111 Starting appeal**

- (1) The appeal is started by filing a written notice of appeal with the tribunal.
- (2) A copy of the notice must be served on the decider.

### **112 Stay of operation of decision**

- (1) The tribunal 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 tribunal considers appropriate; and
  - (b) operates for the period fixed by the tribunal; and
  - (c) may be amended or cancelled by the tribunal.
- (3) The period of a stay under this section must not extend past the time when the tribunal decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if the decision is stayed under this section.

### **113 Hearing procedures**

- (1) In deciding an appeal, the tribunal—
  - (a) has the same powers as the 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 tribunal; or

- (b) in the absence of relevant rules, as directed by the tribunal.
- (4) A power under an Act to make rules for the tribunal includes power to make rules for appeals under this part.

### **114 Tribunal's powers on appeal**

- (1) In deciding an appeal, the tribunal 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 decider with the directions the tribunal considers appropriate.
- (2) If the tribunal substitutes another decision, the substituted decision is, for this Act, other than this part, taken to be the decision of the decider.<sup>49</sup>

## **Part 3 Proceedings**

### **Division 1 Offence proceedings**

#### **115 Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

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<sup>49</sup> For appeals from the tribunal, see the *Land and Resources Tribunal Act 1999* section 67 (Appeal only on question of law).

**116 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.

**117 Allegations of false or misleading matters**

- (1) This section applies to a proceeding for an offence against section 135.<sup>50</sup>
- (2) It is enough for the complaint starting the proceeding to state the relevant document or statement was 'false or misleading' to the defendant's knowledge, without specifying which.
- (3) In the proceeding, evidence that the document or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

**Division 2 Evidentiary provisions for proceedings****118 Application of div 2**

This division applies to a proceeding under or in relation to this Act.

**119 Appointments and authority**

The power of the Minister or the chief executive to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

**120 Signatures**

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

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<sup>50</sup> Section 135 (False or misleading information)

**121 Other evidentiary aids**

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is a thing as follows given, issued, kept or made under this Act—
  - (i) an instrument for a geothermal exploration permit;
  - (ii) a direction, notice or requirement;
  - (iii) the geothermal register;
  - (iv) another record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that, 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, a geothermal exploration permit—
  - (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;
- (f) a stated amount is payable under this Act by a stated person and has not been paid.



- (3) If under this Act there is a change relating to a document or information kept in the geothermal register the chief executive must—
- (a) amend the register to reflect the change; and
  - (b) record in the register when the information was amended.

#### **124 Access to register**

- (1) The chief executive must give a person who asks, a copy of all or part of a notice, a document or information held on the geothermal register, on payment of the fee prescribed under a regulation.
- (2) However, subsection (1) does not apply to any part of the geothermal register that is exempt matter under the *Freedom of Information Act 1992*.

## **Part 5 Transfers in relation to bores**

#### **125 What is the *transfer* of a bore**

A *transfer* of a bore is a transfer of—

- (a) control of, and responsibility for, the bore; and
- (b) ownership of any works constructed in connection with the bore.<sup>52</sup>

#### **126 Transfer of bore to permit holder**

- (1) A person other than the State<sup>53</sup> (the *transferor*) who, under another Act, has control of, or may lawfully take water from, a bore in the area of a geothermal exploration permit, may apply

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52 See section 35(3) (Geothermal exploration).

53 For transfers from the State, see the *Petroleum and Gas (Production and Safety) Act 2004*, section 294 (Responsibility for well or bore after decommissioning).

to the Minister for approval to transfer the bore to the permit holder for use as an exploration bore.

- (2) The transfer has no effect unless the approval is given.
- (3) The application must be—
  - (a) in the approved form; and
  - (b) made by the transferor and each proposed transferee; and
  - (c) accompanied by the fee prescribed under a regulation.
- (4) Subject to section 133A,<sup>54</sup> the Minister must decide whether to grant or refuse the application.
- (6) If the Minister decides to refuse the application, the chief executive must give the applicants an information notice about the decision.

### **127 Transfer of exploration bore from permit holder to landholder or mining interest holder**

- (1) A permit holder may apply to the Minister for approval to transfer an exploration bore in the area of the permit to—
  - (a) a landholder of the land in which the exploration bore is located; or
  - (b) a person who has a mining interest in that land.
- (2) The transfer has no effect unless the approval is given.
- (3) However, the application may be made only if—
  - (a) the construction of the exploration bore or its conversion for the taking of water was carried out by an individual who holds a water bore driller's licence under the *Water Act 2000*; and
  - (b) for a proposed transferee who is a landholder required under the *Water Act 2000* to hold a water licence under that Act to take or interfere with water from the exploration bore—the proposed transferee holds that licence.

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54 Section 133A (Dealing with application that is not a properly made application)

- (4) The application must be—
  - (a) in the approved form; and
  - (b) made by the permit holder and each proposed transferee; and
  - (c) accompanied by the fee prescribed under a regulation.
- (5) Subject to section 133A, the Minister must decide whether to grant or refuse the application.
- (6) If the Minister decides to refuse the application, the chief executive must give the applicants an information notice about the decision.

**128 Transfer of exploration bores from permit holder or former permit holder to the State**

- (1) This section applies to exploration bores in the area of a geothermal exploration permit or former geothermal exploration permit.
- (2) However, this section only applies to any of the exploration bores that have not been transferred under section 127.
- (3) The permit holder or former permit holder may apply to the Minister for approval to transfer the exploration bores to the State.
- (4) The transfer has no effect unless the approval is given.
- (5) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (6) Subject to section 133A, the Minister must decide whether to grant or refuse the application.
- (7) Without limiting subsection (6), the Minister may refuse the application if the exploration bore has not been decommissioned in a way prescribed under a regulation.
- (8) If the Minister decides to refuse the application, the chief executive must give the applicant an information notice about the decision.



**129 Effect of transfer to the State**

- (1) This section applies if a transfer to the State of an exploration bore has been agreed to under section 128 and has taken effect.
- (2) Any obligation that the person who transferred the exploration bore to the State has under this Act or another law in relation to the exploration bore ends.
- (3) However, subsection (2) does not apply to the *Environmental Protection Act 1994*.
- (4) Subsection (2) applies despite—
  - (a) the exploration bore being on or part of land owned by someone else; or
  - (b) the sale or other disposal of the land.
- (5) The State can only transfer the exploration bore to an eligible transferee who has agreed in writing to the transfer.
- (6) The transfer from the State and the use of the exploration bore by the eligible transferee is subject to this Act any other relevant Act or law.
- (7) In this section—

*eligible transferee* means any of the following—

  - (a) a landholder of the land in which the exploration bore is located;
  - (b) a person who has a mining interest in that land;
  - (c) a holder of a geothermal exploration permit the area of which includes that land.

**130 Notice to regulator under Water Act 2000 of transfers to landholder**

- (1) If—
  - (a) a transfer of a bore is approved under section 127 or 129; and
  - (b) the proposed transferee is a landholder who proposes to take water from the bore;

the chief executive must give the regulator under the *Water Act 2000* a notice of the transfer.

- (2) A failure to comply with subsection (1) does not invalidate or otherwise affect the transfer.

## **Part 6                      Delegations**

### **131      Delegation by Minister**

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

### **132      Delegation by chief executive**

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer or employee.

## **Part 7                      Other miscellaneous provisions**

### **132A    Application of petroleum safety provisions to geothermal exploration**

- (1) The petroleum safety provisions apply to a facility or plant used for geothermal exploration—
- (a) as if the facility or plant were an operating plant under the provisions; and
  - (b) as if a reference in the provisions to petroleum or fuel gas were a reference to geothermal energy; and
  - (c) as if a reference in the provisions to a petroleum authority were a reference to a geothermal exploration permit; and

- (d) as if a reference in the provisions to the *Petroleum and Gas (Production and Safety) Act 2004* were a reference to this Act; and
  - (e) with other necessary changes.
- (2) In this section—
- petroleum safety provisions*** means the following provisions of the *Petroleum and Gas (Production and Safety) Act 2004*—
- (a) chapter 9, other than part 6;
  - (b) chapter 10, other than part 2, division 4;
  - (c) sections 811, 812 and 814; and
  - (d) schedule 2, to the extent it contains words mentioned in a petroleum safety provision under paragraph (a), (b) or (c).<sup>55</sup>

### **133 Giving of documents or samples to the Minister or chief executive**

If, under this Act, a document or sample must be made or given to the Minister or chief executive, it must be lodged at the location prescribed under a regulation.

### **133A Dealing with application that is not a properly made application**

- (1) This section applies to an application that is not a properly made application.
- (2) The Minister or chief executive who would, apart from this section, be required to decide the application, must not accept the application.
- (3) The chief executive must, as soon as practicable after the application is received, give the applicant a written notice—

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55 *Petroleum and Gas (Production and Safety) Act 2004*, chapter 9 (Safety), part 6 (Restrictions on gas work), chapter 10 (Investigations and enforcement), part 2, division 4 (Noncompliance procedure for all authorities under Act), sections 811 (Obstruction of inspector or authorised officer), 812 (Pretending to be an inspector or authorised officer), 814 (Executive officers must ensure corporation complies with Act) and schedule 2 (Dictionary)

- (a) stating that—
    - (i) the application is not a properly made application; and
    - (ii) under this Act, the application can not be accepted; and
  - (b) identifying the relevant provision of this Act that the application does not comply with.
- (4) The notice must be accompanied by a refund of any application fee paid by the applicant, less an amount prescribed under a regulation for checking whether the application is a properly made application.

#### **134 Additional information may be required about application**

- (1) This section applies if the Minister or chief executive (the *official*) is deciding, or is required to decide, an application under this Act.
- (2) The official may, by a notice, require the applicant to give the person within a stated reasonable period, additional information about, or a document relevant to, the application.
- (3) If the applicant does not give the additional information or document by the stated day, the official may refuse the application.
- (4) In this section—  
*application* includes tender.

#### **135 False or misleading information**

A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

**136 Recovery of unpaid amounts**

If a provision of this Act requires a permit holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.

**137 Tribunal may award costs**

Despite the *Land and Resources Tribunal Act 1999*, section 50(1), the tribunal may award costs in a proceeding started before it under this Act.

**138 Approved forms**

The chief executive may approve forms for use under this Act.

**139 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may be made about the following—
  - (a) fees payable under this Act;
  - (b) how information and materials must be given under this Act;
  - (c) imposing a penalty of no more than 20 penalty units for a contravention of a provision of a regulation.

## Schedule                      Dictionary

### section 9

***access consent*** see section 87(1)(a).

***affected person***, for land, see section 17(3)(d).

***agreed specific objectives***, for a geothermal exploration permit, means the specific objectives agreed under section 31(d).

***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 by the chief executive, under section 138.

***area***, of a geothermal exploration permit, means the land subject to the permit, as recorded in the instrument for the permit kept in the geothermal register.

***authorised*** means authorised in writing.

***authorised person***, for a geothermal exploration permit, see section 36(1).

***blocks*** see section 10.

***call for tenders*** see section 17(1).

***closing time***, for a call for tenders, means the day and time stated in the call by which tenders in response to it must be made.

***company*** means a company registered under the Corporations Act.

***compensation agreement***, see section 97G(1).

***compensation application***, see section 97H(1).

***compensation liability***, for a geothermal exploration permit holder, see section 97F(2).

***complete suspension*** see section 75(2)(a).

## Schedule (continued)

**conditions**, for a geothermal exploration permit, means its mandatory conditions and tenure conditions.

**decider**, for an appeal, see section 109.

**embargoed land** means land that is embargoed land under section 84.

**environmental authority** means an environmental authority under the *Environmental Protection Act 1994*.

**excluded land**, for a tender release area, see section 18(2).

**exploration bore** means a bore—

- (a) drilled or reopened for geothermal exploration under a geothermal exploration permit or former geothermal exploration permit; or
- (b) to which control of and responsibility for has, under chapter 7, part 5, been transferred to a permit holder.

**externally-administered body corporate** means an externally-administered body corporate under the Corporations Act.

**geothermal energy** means heat energy derived from natural geological processes.

**geothermal exploration** means—

- (a) exploring for, and quantifying, geothermal material; and
- (b) carrying out investigations and other activities associated with exploring for, or quantifying, geothermal material.

**geothermal exploration permit**—

- 1 A *geothermal exploration permit* is a form of tenure, issued under chapter 3, that is still in force.
- 2 A reference to a geothermal exploration permit includes a reference to—
  - (a) the mandatory conditions; and
  - (b) any tenure conditions of the permit; and

## Schedule (continued)

(c) the area and any other provision of the permit.<sup>56</sup>

**geothermal material** is geological strata and associated material in which elevated levels of geothermal energy exist.

*Examples of associated material—*

groundwater, other fluids and gases that may fill fractures or voids in geological strata

**geothermal register** see section 122(1).

**geothermal resource** means a quantification of the amount of geothermal energy contained in an identified volume of geothermal material.

**holding company**, of a corporation, means any body corporate that, under the Corporations Act, is a holding company of the corporation.

**information notice**, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) the right of appeal under this Act against the decision;
- (c) the period in which any appeal under this Act must be started;
- (d) how the right must be exercised;
- (e) that a stay of the decision the subject of an appeal may be applied for under this Act.

**insolvent under administration** means an insolvent under administration under the Corporations Act.

**instrument**, for a geothermal exploration permit, means the tenure instrument for the permit created under section 32(3)(a) and kept in the geothermal register.

**land** includes any of the following—

- (a) land within the beds and banks of all streams, watercourses and inundated land;

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<sup>56</sup> For the mandatory conditions, see chapter 4, part 2 (Mandatory conditions).  
For tenure conditions, see section 29 (Power to impose tenure conditions).



## Schedule (continued)

- (b) land beneath the internal waters of Queensland;
- (c) the sea bed and subsoil to which this Act applies;
- (d) waters in, on and above land.<sup>57</sup>

**landholder**, of land in the area of a geothermal exploration permit, means any of the following—

- (a) a person who is an owner of, or has the right to occupy, the land under any Act or law other than under—
  - (i) the *Mineral Resources Act 1989*; or
  - (ii) the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*;
- (b) if, under an Act, a department, local government or public authority is charged with the control of the land—the department, local government or public authority;
- (c) a person who, under the *Native Title Act 1993* (Cwlth), section 224, is a native title holder in relation to the land.

**limited suspension** see section 75(2)(b).

**mandatory conditions** see section 40(2).

**mining interest**, in land, means—

- (a) a mining tenement under the *Mineral Resources Act 1989*; or
- (b) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
- (c) a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*.

**native title body**, for land, means a representative body under the *Native Title Act 1993* (Cwlth) that relates to the land.

**notice** means a written notice.

**notice of entry** see section 91(2).

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<sup>57</sup> See however, section 5 (Application of Act to land covered by water).

## Schedule (continued)

***notifiable road use***, see section 97B.

***obstruct*** includes unlawfully assault, hinder, interfere with, resist, and attempt or threaten to hinder, interfere with or resist.

***permit*** means a geothermal exploration permit.

***permit holder*** means the holder of a geothermal exploration permit.

***production interest***, in land, means—

- (a) a mining claim or mining lease under the *Mineral Resources Act 1989*; or
- (b) a petroleum lease under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (c) pipeline land for a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

***properly made application*** means an application that complies with—

- (a) for an application under section 57(1)(a)—section 57(2)(a) and (b); or
- (b) for an application under section 57(1)(b)—sections 57(2) and 63(1); or
- (c) for an application under section 57(1)(c)—sections 57(2) and 61(1); or
- (d) for an application under section 57(1)(d)—sections 57(2) and 63(1); or
- (e) for an application under section 57(1)(e)—sections 57(2) and 68(1) and (2); or
- (f) for an application under section 92—section 92(2); or
- (g) for an application under section 126—section 126(3); or
- (h) for an application under section 127—section 127(4); or
- (i) for section 128—section 128(5).

***properly made submissions*** see section 25(4).

## Schedule (continued)

**proposed action** see section 78(1)(a).

**proposed action notice** see section 78(1).

**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 1991* is administered; or
- (b) for another public road—the local government having the control of the road.

**reasonably believes** means to believe on grounds that are reasonable in all the circumstances.

**required information**, for a geothermal exploration permit, is information (in any form) about authorised activities carried out under the permit that the holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) a report given under section 49.

**residual sub-block** see section 18(3).

**road use direction** see section 97D.

**security**, for a geothermal exploration permit, means security for the permit given under section 31(b), as replenished from time to time under section 55.

## Schedule (continued)

***significant change***, in the membership of a company, means a change in its membership of 10% or more during any 12 month period.

***State-controlled road*** see *Transport Infrastructure Act 1994*, schedule 6.

***sub-blocks*** see section 10.

***submission period*** see section 78(1)(f).

***submissions*** means written submissions.

***suitability criteria*** see section 28(4).

***tender release area*** see section 17(2).

***tenure conditions***, for a geothermal exploration permit, see section 29(1).

***transfer***, of a bore, see section 125.

***tribunal*** means the Land and Resources Tribunal.

***tribunal*** means the Land and Resources Tribunal.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	91
3 Key . . . . .	91
4 Table of reprints . . . . .	92
5 List of legislation . . . . .	92
6 List of annotations . . . . .	93

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 25 March 2005. Future amendments of the Geothermal Exploration Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	2004 Act No. 25 2005 Act No. 8	25 March 2005	

## 5 List of legislation

### **Geothermal Exploration Act 2004 No. 12**

date of assent 31 May 2004

ss 1–2 commenced on date of assent

s 14 never proclaimed into force and on 2005 No. 8 s 59

remaining provisions commenced 25 March 2005 (2005 SL No. 43)

amending legislation—

### **Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ss 990–994 (prev ss 930–934) (this Act is amended, see amending legislation below)**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

amending legislation—

#### **Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1–2(1), 258, 69(2) sch (amends 2004 No. 25 above)**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 13 October 2004 (see s 2(1))

#### **Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pt 9 (amends 2004 No. 25 above)**

date of assent 18 March 2005

commenced on date of assent

#### **Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 6**

date of assent 18 March 2005

commenced on date of assent

## **6 List of annotations**

### **Relationship with petroleum legislation**

s 7 sub 2004 No. 25 s 991 (amd 2004 No. 26 s 69(2) sch)

### **Graticulation of earth's surface into "blocks" and "sub-blocks"**

s 10 amd 2005 No. 8 s 58

### **Prohibition on geothermal extraction**

s 14 om 2005 No. 8 s 59

### **Term of permit**

s 33 amd 2005 No. 8 s 60

### **Taking, interfering with and using water for geothermal exploration**

s 39 amd 2005 No. 8 s 61

### **Taking samples in geothermal exploration**

s 39A ins 2005 No. 8 s 62

### **Ownership of samples taken in geothermal exploration**

s 39B ins 2005 No. 8 s 62

### **Public release of required information**

s 49A ins 2005 No. 8 s 63

### **Chief executive may use required information**

s 49B ins 2005 No. 8 s 63

### **Notice of significant discovery**

s 50 amd 2004 No. 25 s 992

### **Power to use security**

s 53 amd 2005 No. 8 s 64

### **Replenishment of security**

s 55 amd 2005 No. 8 s 65

### **Replacement of security**

s 55A ins 2005 No. 8 s 66

### **Security not affected by change in permit holder**

s 55B ins 2005 No. 8 s 66

### **Retention of security**

s 56 amd 2005 No. 8 s 67

### **Deciding application**

s 58 amd 2005 No. 8 s 68

### **Making application**

s 61 amd 2005 No. 8 s 69

### **Making application**

s 63 amd 2005 No. 8 s 70

### **Making application**

s 65 amd 2005 No. 8 s 71

**Power of and procedure for immediate suspension**

s 82            amd 2005 No. 8 s 72

**Waiver by chief executive of requirement**

s 92            amd 2005 No. 8 s 73

**PART 5—PUBLIC ROADS**

pt 5 (ss 97A–97L) ins 2005 No. 8 s 74

**Direction to give samples**

s 107          amd 2005 No. 8 s 75

**Direction to give additional information for requirement under Act**

s 108          amd 2005 No. 8 s 76

**Who may appeal**

s 109          amd 2005 No. 8 s 77

**Transfer of bore to permit holder**

s 126          amd 2004 No. 25 s 993; 2005 No. 8 s 78

**Transfer of exploration bore from permit holder to landholder or mining interest holder**

s 127          amd 2005 No. 8 s 79

**Transfer of exploration bores from permit holder or former permit holder to the State**

s 128          amd 2005 No. 8 s 80

**Application of petroleum safety provisions to geothermal exploration**

s 132A        ins 2004 No. 25 s 993A (amd 2004 No. 26 s 258) (amd 2005 No. 8 s 90)

**Dealing with application that is not a properly made application**

s 133A        ins 2005 No. 8 s 81

**Regulation-making power**

s 139          amd 2005 No. 8 s 82

**CHAPTER 8—AMENDMENT OF OTHER ACTS**

ch 8 (ss 140–164) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE—DICTIONARY**def “**compensation agreement**” ins 2005 No. 8 s 84def “**compensation application**” ins 2005 No. 8 s 84def “**compensation liability**” ins 2005 No. 8 s 84def “**landholder**” amd 2004 No. 25 s 994(1)def “**mining interest**” amd 2004 No. 25 s 994(2) (amd 2004 No. 26 s 69(2) sch)def “**notifiable road use**” ins 2005 No. 8 s 84def “**production interest**” amd 2004 No. 25 s 994(3)–(4)def “**properly made application**” ins 2005 No. 8 s 84def “**public road**” ins 2005 No. 8 s 84def “**public road authority**” ins 2005 No. 8 s 84def “**required information**” ins 2005 No. 8 s 84def “**road use direction**” ins 2005 No. 8 s 84



def “**state controlled road**” ins 2005 No. 8 s 84  
def “**tribunal**” ins 2005 No. 8 s 84

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